

**PUBLIC HEALTH AMENDMENT (SAFE ACCESS ZONES) BILL 2020**

*Second Reading*

Resumed from 10 November.

**MS L. METTAM (Vasse)** [12.21 pm]: I will speak briefly on the Public Health Amendment (Safe Access Zones) Bill 2020. This bill proposes safe access zones, which will provide a 150-metre buffer around premises at which abortions are provided, to prevent abortion-related demonstrations close to these premises. This would bring WA into line with other Australian jurisdictions, apart from South Australia, where a bill to introduce safe access zones is currently before the South Australian Parliament. I understand there has been a lot of public interest in what has been proposed here with 4 000 submissions from the general public and more than 40 submissions from public and private organisations. Seventy per cent of respondents support the introduction of safe access zones around abortion services in Western Australia. Although it is a conscience vote of this Parliament, I will vote in support of this bill because I believe that women attending these clinics to undertake a legal procedure deserve to do so with privacy and respect. According to Marie Stopes Australia, right-to-life advocates spent approximately 2 995 hours outside the Marie Stopes Australia Midland clinic. In 2018, the clinic spent more than \$6 000 upgrading security cameras and protective measures for staff and clients. This is a concern for not only those attending the clinics, but also clearly the staff themselves. Each week clinic staff provide support to clients who are distressed by the presence of people such as this outside the clinic.

I have spoken to those who have been involved in providing what they call “kerbside counselling” and I appreciate what they think they are trying to achieve. Their intention is to provide support to vulnerable women and to try to convince them that the decision to abort is not the only option. However, I do not believe this is the place to do so. The decision has clearly been made, given the approach to these clinics, and these individuals deserve privacy in undertaking a lawful activity. It is evident that existing laws are inadequate in addressing the specific confrontations of women accessing these services, especially for young women who, when using these services, are probably at the most mentally vulnerable time in their life. To be approached at such a time oversteps an acceptable boundary. This bill is about respecting a woman’s right to access a medical service. It allows women to access facilities that provide reproductive health services safely and with dignity. It also protects the workers of such clinics from obstruction and intimidation. These people turn up to work each day to do their jobs just like you and me and must also face the apprehension of what awaits them when they attend work.

WA is one of only two states that do not have safe access zones in place. Safe access zones will provide a 150-metre safety bubble around these clinics. They will stop the approach, harassment, intimidation and public judgement of staff and clients outside these clinics. It should also be remembered that this bill does not prohibit protesting and it does not limit free speech. People who feel passionately about this issue can still protest outside a designated protest perimeter. They can also protest via the entire array of recognised channels, including protesting outside Parliament House, organising petitions and rallies, sending emails and letters to members of Parliament, using social and general forms of media and also many other methods of protest.

This is not a debate or legislation about the legality of abortion. That debate has occurred and will perhaps continue to occur. Parliament and the courts have established the criteria and ethics around a woman’s right to be in charge of her own body. We must respect that outcome. In light of those few words, I commend the bill to the house.

**DR D.J. HONEY (Cottesloe)** [12.27 pm]: I also rise to speak on the Public Health Amendment (Safe Access Zones) Bill 2020. I say at the outset that it appears, and as far as we know, that this is not a priority bill for the government. The Leader of the Opposition in the upper house has received a list of priority bills and this bill is not on that list, so my assumption is that the government does not intend to get this bill through this Parliament and it will need to be reintroduced.

**Mr R.H. Cook:** No, we just know you’ll block it. We know what you will do with the bill. We have seen your colours before, my friend. We know what you’ll do in the other place.

**Dr D.J. HONEY:** Can I say that the minister’s comments really heighten my concerns. If this has been done as a stunt, as some sort of wedge issue so that the minister can make those comments, that is a real disappointment for this Parliament. It is a real disappointment if he is in fact leading members of the public —

**Mr R.H. Cook:** You wouldn’t understand would you?

**The ACTING SPEAKER:** Minister for Health!

**Mr R.H. Cook:** We know what sort of cynicism you bring to this place. You’re just a wrecker like the members in the other place.

Ms Libby Mettam; Dr David Honey; Ms Jessica Shaw; Mr Mark Folkard; Ms Simone McGurk; Mr Roger Cook;  
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**Dr D.J. HONEY:** The minister's comments heighten my concern and that is that he has done this simply as a stunt, not because he genuinely —

Several members interjected.

**The ACTING SPEAKER:** Members!

**Ms J.J. Shaw** interjected.

**Mr R.H. Cook:** Why don't you conduct yourself with some dignity, you grubby little man!

**The ACTING SPEAKER:** Minister for Health and member for Swan Hills!

*Withdrawal of Remark*

**Dr D.J. HONEY:** I call on the member opposite to withdraw. He is making denigrating comments to another member in this house.

**The ACTING SPEAKER (Mr S.J. Price):** It is not an unparliamentary term.

*Debate Resumed*

**Dr D.J. HONEY:** Then my concern is that the grubby minister, can I say, is leading women in this state to believe that he intends to pass this legislation in this term of Parliament, and he does not.

Several members interjected.

**The ACTING SPEAKER:** Minister, members for Swan Hills and Burns Beach, can we just let the member make his contribution please.

**Dr D.J. HONEY:** The government has no intention of passing this bill in this term of Parliament and I think that is misleading women in the state of Western Australia. The member has no idea of my view on this bill. I encourage the member to listen to my view on this bill.

**Ms A. Sanderson** interjected.

**The ACTING SPEAKER:** Member for Morley!

**Dr D.J. HONEY:** Who has lowered the tone?

**Ms A. Sanderson** interjected.

**The ACTING SPEAKER:** Members, let us just get through this, please.

**Dr D.J. HONEY:** This government has introduced a bill that it has no intention of passing in this term of Parliament, based on the list of bills that has been given to our leader in the upper house. If that is not the case, clarify it. I think it is disappointing if this is being done simply as a wedge issue. This is a critically important issue. I understand in great detail the intent of this bill. It is a very complex issue and I think the great majority of people would support most parts of the bill. If members opposite do not imagine what I am going to say but listen to what I say, they may be enlightened. Proposed section 202N, "Purpose", states —

The purpose of this Part is —

- (a) to provide for safe access zones around premises at which abortions are provided so as to protect the safety and wellbeing, and respect the privacy and dignity, of —
  - (i) persons accessing the services provided at those premises; and
  - (ii) employees and other persons who need to access those premises in the course of their duties and responsibilities;

and

- (b) to prohibit publication and distribution of certain recordings.

I do not think there is a person in this place, including me, who does not support that intent in the bill. I think that the great majority of Western Australians would in fact support that intent. My concern is with the breadth of the terms used in subsequent provisions in the bill. For example, proposed section 202O, "Terms used", contains the definition of "distribute", which states —

- (a) communicate, exhibit, send, supply, offer or transmit, whether to a particular person or not; and
- (b) make available for access, whether by a particular person or not; ...

A distance of 150 metres is referred to later in the bill.

Proposed section 202P(2)(b) states —

subject to subsection (3), communicates by any means in relation to abortion in a manner that is —

- (i) able to be seen or heard by a person accessing, attempting to access or leaving premises at which abortions are provided; and
- (ii) reasonably likely to cause distress or anxiety;

To understand the impact of the bill, we need to understand the breadth of those terms. As I said, I do not think this is a trivial issue. I know that these debates have been held in one form or another for some time, and it is portrayed as though there is a very clear answer one way or the other and anyone who dares suggest that there may be some ambiguity or greyness in the debate is pilloried and they get the response that I received when I pointed out that the government has not stated that this is a priority bill that it intends to put through Parliament this year. As the minister stated in his second reading speech, the bill is not about abortion. That debate has been held in this place, and access to safe abortions is a legal right for all women in Western Australia.

I do not believe that any person in this place believes that it is appropriate for women using these services to be subject to harassment or vilification. Some people in this place would know that some community groups are concerned that not all women accessing abortion clinics and hospitals are doing so of their own free will. They are concerned that some women have been subject to harassment by their partner, their family and even their friends. They are concerned that some women may be accessing the services because they do not know how they will be supported during pregnancy or after the child is born. I am going to give an example, and I understand that it is an extreme example, but I think it illustrates the point. I will read an article published in the *Daily Mail Australia* of 5 March 2017. I will not name the people because I do not want to give that any air, but I can provide that information for people if they wish. The article states —

**‘The pressure was relentless’: Former girlfriend of ... ‘was paid \$50,000 to get an abortion in contract brokered by former club player’**

- **The 24-year-old woman fell pregnant while dating ... last year**
- **A contract was drawn-up stating the pregnancy was to be terminated**
- **The woman, known only as Miss X, was paid \$50,000 to have the abortion**
- **She said she felt ‘relentless pressure’ to have the procedure in November**

I will quote some little parts of the article —

‘I felt I had no other option than to get rid of the baby, the pressure was relentless,’ she said.

A contract was drawn-up before the procedure stating the pregnancy would be terminated by agreement of both parties and ... would pay Miss X the \$50,000.

The deal to pay Miss X the money was allegedly brokered by club intermediary ...

Miss X claims ... made clear she would be provided ‘minimum support’ if she kept the baby.

She said she felt ‘bullied’ and ‘boxed into a corner’.

Miss X, who broke up with ... after she fell pregnant, says she ending up donating the money to charity because she was full of regret.

I fully understand that this is an extreme example. However, I have heard other stories about women who felt that they were subject to extreme pressure by their families and/or their partner to terminate a pregnancy. As I have indicated already, I strongly agree with the contention that women should have safe access to abortion services and be free from harassment. My key concern with the bill is what may be seen to be, to quote the phrase in proposed section 202P(2)(b)(ii) of the bill, “reasonably likely to cause distress or anxiety”. That is a very broad description that could encompass a very wide set of behaviours. As I have indicated, I have no sympathy for people who deliberately try to impede or cause distress or anxiety to women accessing abortion services. The key question is: does that mean that there can be no interaction with a woman accessing the service?

A concern has been expressed to me by a Christian organisation that the very broad scope of this bill will unfairly impede the work that it does to assist women who may be accessing an abortion service but who are doing so because they are suffering from undue pressure or financial distress. One such group is 40 Weeks to Life.

**Mr D.J. Kelly:** Does that Christian group support safe access to abortion in the absence of harassment? If they don’t, they’re not really in the best position to take up that issue, I would have thought.

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**Dr D.J. HONEY:** I will go on further to talk about this. I believe these are well-meaning people. They have a different view on other things, but I believe they are well meaning in this regard. I am happy to listen to other members debate this point in this place.

**Ms A. Sanderson:** You weren't here last night listening to other members.

**Dr D.J. HONEY:** No; I was extremely ill in bed at home with gastro.

**Ms A. Sanderson:** Thanks for bringing it.

**The ACTING SPEAKER:** Members!

**Dr D.J. HONEY:** The member can have it one way or the other.

**Ms A. Sanderson** interjected.

**The ACTING SPEAKER:** Member for Morley!

**Dr D.J. HONEY:** Can I continue please? I will be happy to answer interjections in a moment.

This group conducts prayer vigils —

**Ms A. Sanderson** interjected.

**The ACTING SPEAKER:** Member for Morley!

**Dr D.J. HONEY:** Members of this group conduct prayer vigils outside the clinics and also hand out brochures to women attending the clinics, offering help and support. They claim that since 2012 at least 55 women have accepted their offer for help and went on to have their baby. They believe that 55 people are alive today because of their action.

The minister also pointed out in his second reading speech that groups such as 40 Weeks to Life currently require a police permit under the Public Order in Streets Act 1984. The police regularly issue such permits that specify conditions for a group's activity. I believe that the broad scope of the bill presupposes that every woman accessing an abortion clinic is fully resolved to go through with the process and is doing so of her own free will.

I am sure—I think that this is in line with most members—that that is the case for the great majority of women who attend the clinics. I have the greatest empathy with how those women must feel and the anguish that they go through when they terminate their pregnancy. I also have great empathy with the women who are accessing the service under extreme pressure from a partner or their family, or because they believe that they simply cannot financially cope with a child. Women should be able to access abortion services without being harassed or impeded. But I also believe that it is fair that people with good intent should have the opportunity to politely offer to help someone who is accessing those services because of extreme pressure or financial distress.

As I indicated, I support the greater part of the bill. However, I am concerned—this is in the form of a question to the minister—that the very broad scope of the restrictions in this bill will go too far and will prevent reasonable people behaving in a proper and reasonable way when assisting women accessing abortion under distress. I will say, minister, that I am concerned. I understand that the great majority of women who access abortion services are likely to be fully resolved in the matter and that they intend to go ahead, and that they should be able to do that unimpeded. I fully accept and understand that. I appreciate that there will be a small number—based on the numbers I have quoted, it is a small number—but some women are subject to enormous duress and pressure from their partners and may be suffering extreme financial distress and access the service only because of that and not because they, in fact, wish to terminate the pregnancy. But I would like to know what other avenues will be provided to ensure that all the women who access these services are doing so of their free will? As I said, I have no truck with people standing there. If they are abusive or stand in the way of someone, that is wrong and they should be dealt with. That is improper. If someone harasses the staff operating in those places, that is wrong and improper. But if someone simply wants to ask someone, “Look, would you like some help? Would you like some assistance?”, then I am concerned that if they cannot, some women will go through with the termination of a pregnancy when they may not have done. The information I have is that since 2012, 55 people have not gone down that path.

That is my simple concern about the bill. I fully understand the intent of the bill and I accept the greater part of the intent of the bill. However, I am concerned about how women who are subject to duress and undue pressure from partners or to financial stress will get help so that they keep a child they want to keep.

**MS J.J. SHAW (Swan Hills)** [12.42 pm]: I rise to speak in support of the Public Health Amendment (Safe Access Zones) Bill 2020. I have had a very longstanding personal interest in this matter and this matter also has considerable significance in my community. Back in 1997, as a first-year law student, I remember my first law class. It was during the time when Tony Abbott and Brian Harradine did that absolutely dreadful deal to prevent women's access to RU486. My group within that first-year law class was given this topic to debate. We had to do a term-long project on the legalities and intersection between the ethical and moral considerations, and the medical advice on RU486. One of my lifelong friends, Melissa, and I had fundamentally opposed views on abortion and it was really a testing

time for our relationship. This issue really goes to so many deeply held beliefs for so many people. I held the view then, and I hold the same view now, that these are intensely personal decisions and that no-one has the right to interfere with those personal views—those decisions that women make over their bodies during what is often a profoundly challenging and very difficult time. I remember being absolutely incensed at the right that Tony Abbott and those religious zealots who now seem to control the Liberal Party felt that they had to control my body and other young women's bodies. That was back in 1997 and it infuriated me then, but then I took the—sometimes, I think—crazy decision to run for Parliament.

I want to address some of the issues that the member for Cottesloe made about how this is just a last-minute issue for the Labor Party. It absolutely is not. I recall the Minister for Health absolutely affirming his personal support for safe access zones in early 2017. Later on that year, the party cemented its position on safe access zones. In fact, in the following year, I remember at our state conference in 2018, Labor for Choice held a side seminar commemorating the twentieth anniversary of the passage of the Davenport bill. I went to that seminar and the room was full of young women. Cheryl Davenport and Di Warnock recounted their experiences in passing the Davenport bill. It took two and a half months for that legislation to pass. When that bill was first introduced into the upper house, the numbers had been done and it had a majority of one. They developed that legislation and mediated across the aisle to pass that bill with a vote of 23–9. At that time, people in the upper house were prepared to acknowledge that women do have the right to autonomy and should be able to exercise control over their bodies, and that they have the right to do that in a safe, dignified and private way.

That seminar was facilitated by two young women who were about the same age as I was when, in 1997, I, as a first-year university student, was debating exactly the same issues. I remember offering the observation to the room that I was deeply disappointed that 20 years later women, who were the same age as I had been in 1997, were still grappling with the very same issues—the right to autonomy over our bodies and the right to access reproductive health in a safe and private way. It is shameful that we are still having these debates and that we are still having to fight those religious zealots in control of the Liberal Party. It is absolutely a blight on our democracy. Those people up there who think that they have any right to tell any woman what she can and cannot do with her body need to take a strong hard look at themselves! I get very upset about this.

This bill is also deeply relevant to my local community, because the previous government—again dominated by religious zeal—prevented women in my community accessing our publicly funded hospital for reproductive health services. Women in Midland have to face protests at the Marie Stopes clinic at a time when they are really vulnerable and often in very traumatic circumstances. It was the Liberal Party's decision to do that. It is the religious zealots in the upper house who continue to prevent the passage of any of these sorts of bills—reforms that respect autonomy and individual choice and our capacity to have a conscience and to exercise that conscience, and to exercise control over our bodies in the way that we see fit. Those people cannot accept that women in Western Australia should be able to access reproductive health in safety, with dignity and in privacy. Those women face demonstrations that effectively act as a barrier to accessing legal health services. That causes distress and anxiety to patients and staff.

I remember an article in *The West Australian* dated Friday, 8 February 2019, titled “Staff safety fears at abortion clinic”, which explained how staff were forced to wear body cameras and how CCTV equipment had to be installed at the clinic to prevent anti-abortion protesters who had managed to obtain a permit to carry out one of their 40 days of Lent protests. The people of Midland should know that the current Liberal Party candidate for Midland started that. The current Liberal Party candidate for Midland, as reported by ABC Perth on Monday, 1 February 2016, as part of a religious organisation with origins in the United States, set up a prayer vigil outside that Midland abortion clinic. Every year now, women in my community have to face that even as they grapple with some of the most profoundly challenging, deeply personal and traumatic decisions they will ever make. The people of Midland need to be aware of that. Fast-forward to 2019, and the staff at the Midland clinic are still complaining about being spat on and called murderers, and having holy water thrown at their cars by protesters outside that clinic. This is incredibly traumatic and distressing for the women who use the clinic and for the staff. These are difficult decisions and those people are not making them any easier. The permits to protest were cancelled during COVID-19, and thank goodness they were.

**Ms A. Sanderson:** They still turned up.

**Ms J.J. SHAW:** I know. The permits were cancelled on 20 March but on 27 March the clinic had to call the police and ask the protesters to move on. Even in the face of a pandemic—one of the most significant health crises this community has ever faced, when medical and nursing staff are going through an incredibly tough time as it is—this mob still felt that it was appropriate to protest at these abortion clinics, and the Liberal Party continues to oppose the reforms that would prevent that from happening. The position that those opposite are taking is unbelievable. The people of Midland need to think long and hard about who they vote for in the 2021 election because there is a genuine choice and it affects our community and women's rights in our community. People need to understand that.

Ms Libby Mettam; Dr David Honey; Ms Jessica Shaw; Mr Mark Folkard; Ms Simone McGurk; Mr Roger Cook;  
Mr Zak Kirkup

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In February 2019, the government announced a consultation process to initiate some legislative reform. Again, I will talk to some of the points that have been made about the timetable for this legislation. It was apparent in February 2019 that the High Court challenges to the Victorian and Tasmanian cases were on foot. It was important to resolve those issues prior to developing legislation because any government wants to ensure that the legislation it implements is constitutionally valid, so it was important that the government did that. In April 2019, after the High Court decision had been handed down, the government then commenced consultation and issued a consultation paper, the process for which ended on 31 May 2019. That consultation paper considered two options. The first was the retention of the status quo, with no changes being made to the current regulatory system. That would allow this disgusting behaviour that we see outside the abortion clinics to continue and be managed by the police through the permit system, leaving the existing criminal and civil courses of action available. The only way individuals who were adversely affected could deal with this was to get recourse through the courts. Instead of the government stepping up and protecting patients and staff, clinics would have to continue to address the problem with their own means and provide their staff with body cameras and use CCTV because of the conduct of those people. That is the first option that the consultation paper sought feedback on.

The second option was specifically the introduction of safe access zones around premises that provide abortion services or other relevant health services such as fertility treatments, assisted reproductive services, contraception, family planning, sexually transmitted infection testing and treatment, and abortions. I argue that abortions should still be available in public hospitals, but because of the Liberal Party's disgraceful decisions when it was last in government, they are not available at our local public hospital. The primary objective of the second option is to establish a buffer zone around premises and make it an offence to engage in prohibited behaviour within the zone. That is the sort of conduct that we were just discussing that I know other members have spoken about. It is designed to protect patients and staff who access clinics from harassment and intimidation. It is important to take time on such an important issue as this to ensure that the legislation is constitutionally valid, reflects the will of the community and provides the protections that are intended.

The consultation response to this process was absolutely extraordinary. There were 235 email and paper submissions and nearly 4 000 engagements through an online survey. Of the 3 300 respondents, 83.8 per cent identified that they were from WA, which goes to show how passionately this issue is felt in Western Australia. Seventy per cent of all the submissions were in favour of introducing safe access zones. Yet again, this is another issue for which the Liberal Party is showing itself to be fundamentally off the mark in its understanding of what the people of Western Australia want and expect of their governments. Of the 2 927 respondents in favour of safe access zones, 48 per cent supported access zones around other health services; 75 per cent supported safe access zones of 150 metres, which is quite a buffer zone; 79.5 per cent of submissions supported safe access zones being in place for 24 hours, seven days a week; 96 per cent supported what would constitute prohibited behaviour in safe access zones being modelled on the prohibited behaviours outlined in Victoria's Public Health and Wellbeing Act, which is very important to consider when the legislative mechanism incorporated in the Victorian bill was subsequently litigated in the High Court; and 77.3 per cent of submissions opposed the inclusion of additional exemptions.

Seven recommendations were produced following that consultation process. They are: that safe access zones legislation should be introduced; that those zones should apply to premises at which abortions are provided; that the premises and a buffer area of 150 metres from the boundaries should be protected; that the zones should be protected for 24/7; that the definition of "prohibited behaviour" should be modelled on Victoria's definition; that the legislation should not provide for exemptions; and, finally, that there be a maximum penalty of a fine of \$12 000 and 12 months' imprisonment for engaging in prohibited behaviour in a safe access zone and for the publication and distribution of recorded material without consent.

Following hot on the heels of the conclusion of that consultation process, in February 2020, the government committed to that legislation. Again, that was done as quickly as possible once the High Court decision had been made, the public's views were known and adequate consideration had been given to whether the mechanisms would achieve their intended effect. That is when the government committed to introducing the legislation. Something happened in February that was pretty earth-shattering for the Department of Health—COVID-19—and it completely reoriented the Minister for Health and the Department of Health to focus on responding to the pandemic. Unfortunately, that delayed the progression of this legislation, which is understandable, but it certainly has not been for want of a desire to deliver this legislation and get it through.

Again, I want to address some of the, frankly, petty and nasty commentary that has been coming out from the Liberal Party about the progression of this legislation. It is a shameful misrepresentation of the process that this government went through. This has always been a priority of the Labor government and a longstanding priority for the Labor Party. It is disingenuous in the extreme for the Liberal Party to present the position in any other way.

**Dr D.J. Honey:** Then why wasn't it a priority bill?

Ms Libby Mettam; Dr David Honey; Ms Jessica Shaw; Mr Mark Folkard; Ms Simone McGurk; Mr Roger Cook;  
Mr Zak Kirkup

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**Ms J.J. SHAW:** Perhaps if the member for Cottesloe was not conducting conversations in the chamber while I was speaking, he may have actually heard why the progression of the bill was delayed.

[Member's time extended.]

**Ms J.J. SHAW:** As I said, the COVID-19 pandemic considerably delayed the Department of Health's ability to develop the bill. But as soon as it was possible for the Department of Health and the minister to reorient their staff and teams to the development of the bill, they promptly did that, and the legislation was introduced in October 2020. I just say that it is disingenuous for the Liberal Party to somehow claim that this bill has not been progressed as expeditiously, thoroughly and promptly as possible.

**Dr D.J. Honey** interjected.

**Ms J.J. SHAW:** Mr Acting Speaker, again I would ask for your protection from the snide comments coming from those opposite.

**The ACTING SPEAKER:** Yes. Carry on, member.

**Ms J.J. SHAW:** Thank you, Mr Acting Speaker.

The abortion laws that this state has ended up with are modelled on the Victorian laws. It is very important that that is the case, because those laws have been tested in the High Court, which upheld the use of buffer zones outside health clinics. The challenge to the legislation was brought by two anti-abortionists. One of those was charged under the Victorian legislation with engaging in prohibited behaviour, namely communicating about abortions with persons accessing premises at which abortions are provided while within a safe access zone, in a way that is reasonably likely to cause anxiety or distress. The second person was charged under the Tasmanian legislation for holding placards, leaflets and a media release. Each of those appellants challenged the constitutional validity of the laws, arguing that they impermissibly burdened the freedom of communication about matters of government and politics that is implied in the Constitution.

In upholding the Victorian laws, Chief Justice Kiefel and Justices Bell and Keane applied the test in *McCloy v NSW*. I had to dust off my legal research skills for this; it has been quite some time since I have had to do this. They noted in their judgement —

The implied freedom is not a guarantee of an audience; a fortiori, it is not an entitlement to force a message on an audience held captive to that message. ... it is inconsistent with the dignity of members of the sovereign people to seek to hold them captive in that way.

That is precisely what these anti-abortion advocates seek to do.

*McCloy* was also cited by Chief Justice Kiefel and Justices Bell and Keane when they said —

A law calculated to maintain the dignity of members of the sovereign people by ensuring that they are not held captive by an uninvited political message accords with the political sovereignty which underpins the implied freedom.

A balancing act needs to be achieved here. The Victorian legislation has provided a great template for the Western Australian legislation.

The important point to appreciate is that the proposed amendments do not stop freedom of speech. People can still protest. People can still write to their members of Parliament. People can still gather and protest on the steps of Parliament House. They can issue petitions. They can march up and down St Georges Terrace—so long as they have permits, of course. What they cannot do is turn up outside abortion clinics and other medical facilities at which women are exercising their fundamental right to autonomy over their body and to make choices about what happens to them. No man can ever appreciate how difficult those choices are. No person who has never had to make those choices can ever appreciate how difficult they are. Those choices are usually made when people are extraordinarily vulnerable and are genuinely grappling with their conscience and going through considerable trauma. Those people deserve safety, privacy and dignity, and those who oppose abortion should respect their right to safety, privacy and dignity.

I commend the Minister for Health for bringing this legislation forward, given the difficulty presented by the High Court challenge, and understanding that we need to ensure that this bill will genuinely deliver on its purpose. I commend the minister also for bringing this legislation forward despite the significant challenges caused by COVID-19, which, as I said, completely reoriented the attention of the Department of Health and the Minister for Health.

I fully commend the bill to the house. I encourage the religious zealots who seem to control the Liberal Party in many ways and on many issues, and who seem so blindly—wilfully, perhaps—ignorant of the views of the polity across a range of issues, whether it is banning puppy farms or protecting women's right to choose, to take a long hard look at themselves. On all sorts of issues, Liberal Party members are tone deaf to the Western Australian community. If they do not take a long hard look at themselves, I suspect that they may face electoral oblivion for some time to come.

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**MR M.J. FOLKARD (Burns Beach)** [1.04 pm]: I rise to speak to Public Health Amendment (Safe Access Zones) Bill 2020. Yesterday, I listened to the member for Armadale's speech, and also to the members for Morley and Mirrabooka and the fine words they delivered to this house. This morning, I had the privilege of listening to the member for Vasse and her fine words. Today, I listened to the member for Swan Hills, with her passion about this particular area and this bill.

The purpose of this legislation is to protect and respect the safety, dignity, wellbeing and privacy of individuals who seek access to legal medical services. This legislation is not about the pros and cons of family planning or abortion. The Minister for Health set that out when he spoke on the bill. This bill is about creating a safe access zone. The bill defines a "safe access zone" as the area within 150 metres outside the boundary of a family planning service. I am probably in a fairly unique position compared with anyone else in this house, because I have had to protect these clinics. I think the prescribed distance should be greater, and I will explain that by outlining a personal experience that I had in dealing with a family planning clinic.

All members would be aware that I was a policeman for many years. Early in my career, before all the current legislation about family planning and abortion was put through this place, I had to deal with the protests that were taking place in the metropolitan area outside family planning clinics, as they were referred to in their time. My good old sergeant said to me, "Constable, I want you to go and watch one of those crowds for me." I said, "Yes, boss. What else do you want me to do?" He said, "I just want you to watch, and, if there is any misbehaviour, I want you to deal with it." So off I went in plain clothes, and for about three days I watched one of these protests. There was a group of evangelicals—I suppose religious zealots would be another way of describing them—and I watched how they were protesting. Back in the day, they were quite clever; they knew the law. They would protest on the boundary of the properties involved. The particular group that I watched over time numbered about three dozen. They would hold up large placards and signs.

I watched the bullying tactics that they used as people approached the clinic or drove up in cars, and how they would spit on cars or throw water on cars. I even watched what they did to the employees at those places. Among the group that I had been watching for a couple of days was a particularly tall fellow. I remember that specifically. He had a camera. As people approached that clinic, he would start taking photos of them. If they were in a car, or if they were employees who had just got off the bus and were walking towards the clinic, he would take photos. His vitriol towards them was nothing short of disgraceful. I can say that with all my heart.

After about three days, I watched a young girl approach the centre. I will never say her name, because I have forgotten it, to be frank. That is probably one of the ways that I dealt with it. She was about 16 or 17 years of age. She was by herself. I saw her walk towards the clinic. I watched the behaviour of the crowd. The closer she got, the more abuse, intimidation and harassment she received. I have mentioned the fellow with the camera. This guy was about six foot eight inches tall. He was a monster of a man. He was taking photos of this young woman, and he was yelling at her that he was going to show the world her face and what she was doing. I saw the look on this poor girl's face. I saw her body language. It had changed. She was terrified. But, to her credit, she kept walking.

I continued watching the crowd and making notes as all good policemen would do. Probably about half an hour after I saw her approach the clinic, an ambulance arrived with its sirens on. I thought: what the heck is going on here? I went over to the clinic and went inside. Upon arriving at the clinic, this young girl had gone into the toilets and used a set of nail clippers to try to tear her wrists apart in an attempt at suicide. That was how terrified this poor woman was. I do not know how, but I ended up in the back of the ambulance with her. She just kept on saying, "He's got my photo. He's got my photo." She kept repeating it over and over again. I got out of the ambulance and the paramedics did their job and off it went. I went back to the car, spoke to my partner and said, "I'm gonna fix this prick!" Pardon my language. I rang the local coppers and had them pull out the front in a van. This fella was a big fella. I walked up to him in the middle of the crowd, grabbed him by the scruff of his throat, and somewhere else, and I frogmarched him to the back of the van and threw him up against it. I opened it—the other coppers helped me out—and we threw him inside. I grabbed all his cameras off him—made sure we had all those—and we took him back to the police station.

He kicked up—I remember that—and I remember looking at him before we put him in the back of the van, thinking go on, mate. Give me the privilege. Throw a punch at me, for God's sake. He was in tears because it would have been the first time, I think, that this bugger had ever been bullied. I threw him in the back of the van. We took him back to the station. I looked at the sergeant and he said, "Nah, take him down the lockup. He ain't worth being processed here." Off we went back to the lock-up. We arrived there; we processed him and he got bail. I think I ended up with about five or six complaints that day. By some miracle, all his film was overexposed—I do not know why. His camera was broken—I do not know how that happened. I think it was in the back of the van when he was kicking up. Anyway, that is life. In the old days, we used to call them yellow perils and I remember I got four yellow perils for it. I also have a memory of going to the back of the van and some ladies hit me with their signs, probably because someone had actually stood up to them and their horrible behaviour.



Ms Libby Mettam; Dr David Honey; Ms Jessica Shaw; Mr Mark Folkard; Ms Simone McGurk; Mr Roger Cook;  
Mr Zak Kirkup

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We went through the court process. I had prepared my brief and all that sort of stuff and the bloke pleaded not guilty. The only offence that I could charge him with back in the day was disorderly conduct. There was nothing else. There were no other legislative things that we could charge him with. I had prepared my brief and had made some fairly good notes in my little police notebook. Con Zempilas was the magistrate on the day. I do not know whether members remember him. Old Con was an old-school magistrate. I was sitting at court and the offender was on his side of the bench when I gave my evidence-in-chief. The defendant started screaming, "What was her name?" I said that there was no way I was going to tell them that. He said, "It's in your notebook. I demand you tell us her name!" He started getting stroppier and stroppier, which is part of the intimidation that these individuals do. Mr Zempilas asked to see my notebook and I handed it up to the bench. He read it and said, "You know what, constable? You are right. She deserves her peace. She deserves her dignity. She deserves not to be named in this court case." He turned to the defendant and said, "And you, sir, are arguably one of the biggest mongrels I have ever seen in this place." Then he gave him the maximum fine that he could at the time.

As I said, when I talk about this issue, I would triple the 150 metres. I would take it even further. For the penalties involved, I would double it, because what those people did to that poor young girl, I will never forget. This is an important piece of legislation. Whether we get it through in this Parliament with the help of the upper house, I do not know. But if we do not get it through this time, we will get it up the next time because this is one of the good pieces of work that we do in this place.

I thank members and I commend the bill to the house.

**MS S.F. McGURK (Fremantle — Minister for Child Protection)** [1.14 pm]: I want to make a contribution to the second reading debate on the Public Health Amendment (Safe Access Zones) Bill 2020. First, I express my appreciation to the Minister for Health and his team for doing the work to get this bill before the Parliament. It is long overdue, but I am very proud that Labor has a commitment in this place for ensuring that women have genuine reproductive freedoms and choices in how they control their fertility. That, really, is at the heart of a civilised society, and gives women choices in their lives for not only their reproductive health, but also how they conduct their lives on the whole.

Many people have made the point that the bill before us does not make any changes to the decriminalisation of abortion, but the debate about the safe access zones cannot help but impinge on that question, because what the government is seeking to do in establishing safe access zones is reassert the protection of those people going to those clinics to seek services, whether it is women obtaining abortions with their family, supporters, partners or whether men are seeking other sexual health services available at those clinics, and, of course, the safety of the staff themselves.

I am proud to speak on this important bill because it will help end the harassment of women and medical staff at clinics by legislating these safe access zones.

As people have commented, the zones will operate 24 hours a day, seven days a week to protect members of the community from unnecessary interference as they seek medical services. It will be prohibited to harass or intimidate anyone accessing these premises; communicate with people, who are using the service, in a manner that is likely to cause distress; obstruct access to a service; and record, by any means, without consent.

WA lags behind the rest of the country, which has introduced safe access zones around clinics. I noticed in the speech from the member for Vasse that she was perhaps a little out of date. My understanding is that we are now the last state to change —

**Mr R.H. Cook:** I think that has just passed the South Australian Parliament.

**Ms S.F. McGURK:** It has just passed in the South Australian Parliament, so the member is not too far off. It has just been enacted.

**Mr Z.R.F. Kirkup** interjected.

**Ms S.F. McGURK:** Sorry. It may be before the South Australian Parliament, but, in any case —

**The ACTING SPEAKER (Ms L. Mettam):** That's what I said, minister.

**Ms S.F. McGURK:** — it is beyond time for us to come into line with the best practice to protect Western Australian women.

The fundamental right to safety, privacy, dignity and respect when accessing health care should be fiercely protected. This extends to not only the patients, but also the dedicated staff who work at these facilities. Just as all workers have a right to a safe workplace, people who work at abortion clinics have the right to attend their workplace free from obstruction and harassment.

It is well understood that people in our community have strong views about abortion, and they are entitled to those views. This legislation seeks to neither interfere with those views nor prevent the right to conduct peaceful demonstration. This legislation puts in place protections to ensure that any protests or demonstrations are conducted in the appropriate places and in a way that does not harass or intimidate anyone seeking access to legal medical services.

As other speakers on this bill have outlined, up until 1998, abortion was illegal in this state; however, no women or doctors had been charged or convicted for procuring abortions for many years. However, in January 1998, two doctors were advised by the Office of the Director of Public Prosecutions that they were to be charged for providing abortion services. This was despite growing momentum and long-held public opinion that women should have the right to make decisions about their own bodies, including to terminate a pregnancy if that is what they want to do.

As a result, activists including lawyers and pro-choice politicians and members of the community ramped up efforts to draft a bill to remove abortion from the Western Australian Criminal Code. Acknowledgement has been made in this debate of Hon Cheryl Davenport, then member of Legislative Council for the South Metropolitan Region, and her colleagues including Diana Warnock, the former member for Perth, as being instrumental in shepherding what would be a transformational piece of law reform to ensure that terminations are treated as a health and medical issue for women in Western Australia. Impressively, that team managed to achieve this law reform while in opposition through a private member's bill. The achievement was not only a testament to their skills in negotiation and policy development, but also the groundswell of public support for the decriminalisation of terminations.

The bill before the house does not deal with the established legality of terminations in our state. Instead, its purpose is to support this essential medical service through these provisions. Safe access zones are an important instrument to ensure that these hard-fought law reforms have appropriate protections in place for people accessing termination services. Since abortion was legalised in this state, the issue of protesters outside clinics approaching women who are accessing these services has been ongoing. The behaviour of protesters has a profound impact on patients, their supporters and staff working at the clinics. The behaviour of protesters has included verbal harassment, approaching patients trying to "counsel"—I use that word loosely—they about their decision with a view to them changing their mind, recording patients without their consent, forming intimidating groups that can range to over 40 people outside a clinic and creating a physical barrier for patients trying to enter a clinic. Placards that display confronting and often inaccurate images of embryos and fetuses coupled with inflammatory language also form part of these demonstrations.

The Department of Health's consultation process on this legislation received overwhelming support for these laws to be introduced in Western Australia. Of the more than 4 000 submissions, 70 per cent supported the establishment of safe access zones. The consultation process also heard clear examples of unacceptable behaviour occurring outside facilities in Western Australia right now. Six hundred submissions commented that protesters increase the emotional distress of patients and over 100 submissions commented that patients face increased risk of mental health impacts due to protesters' behaviour. We heard the member for Burns Beach give an example of that from his time as a serving police officer. Submissions to the consultation process described interactions with protesters as traumatic, stressful, overwhelming, awful, horrible, painful, hard, scary, hurtful, confronting, upsetting, frightening, horrifying, disturbing and distressing.

It is noteworthy that the clinics in which abortions take place not only provide termination options, but also a range of essential family planning services, which may include sexual health services, contraception and sterilisation. Demonstrators outside these facilities impact on not only women seeking terminations, but also those seeking other family planning services, which has an impact on the physical, economic and social wellbeing of patients.

In its submission, the Castan Centre for Human Rights Law at Monash University commented that its research has found that in Western Australia two groups that frequent abortion clinics hand out goody bags containing food and lollies as an attempt to cancel procedures that require fasting and frustrate women's efforts to obtain lawful medical services. Acting Speaker, Western Australian women deserve better. They are entitled to seek essential medical services without facing harassment and without having their choices challenged. They deserve to be free from harassment and intimidation across all areas of their lives, including when they access medical services. The High Court of Australia made it clear that these zones have an important role to play in protecting women's right to access medical services safely. The High Court last year upheld that both the Victorian and the Tasmanian safe access zones were justified in limiting freedom in order to uphold the protection of the safety, wellbeing and privacy of women accessing medical services. These laws strike the right balance between the right to peacefully protest with the right of people, especially women, to access medical services.

For far too long Western Australians have had to experience abuse when accessing essential medical services. As the first Minister for Prevention of Family and Domestic Violence, I am well aware of the impact on women of abuse and how abuse occurs outside interpersonal relationships. Abuse in all its forms is unacceptable, and all too often women bear the burden of this in our society. As Minister for Women's Interests, I know that women's health and women's right to choose is fundamental to gender equality. Safe access zones will provide protection for

Ms Libby Mettam; Dr David Honey; Ms Jessica Shaw; Mr Mark Folkard; Ms Simone McGurk; Mr Roger Cook;  
Mr Zak Kirkup

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women to ensure that they are safe and their privacy is upheld. Women have a right to access medical services and to have their choices respected. These are not easy choices. Termination services provide quality services to women to support them in these choices; they do not need another party or group expressing its views and calling that choice into question.

I am sorry that the member for Cottesloe has left the chamber, because I think it is important that he hears that point again. The member for Cottesloe made some points —

Several members interjected.

**Ms S.F. McGURK:** Thank you. Perhaps the member for Cottesloe could take the time to listen to these points. The member for Cottesloe made the point that he believes there might be an argument to say that some women may have been subject to harassment or pressure to go into the clinic and that women need protection against that. Perhaps the member could have taken the time to inform himself of the current legislation in Western Australia, which requires abortion clinics to provide information to women on the various options available to them before an induced abortion is provided. In Western Australia, abortion is available on request to women less than 20 weeks pregnant provided that informed consent has been given. When a woman is 20 weeks pregnant or more, there are further special requirements. “Informed consent” is defined under the Health (Miscellaneous Provisions) Act 1911 as whether a medical practitioner, other than the medical practitioner performing or assisting with the abortion, has provided counselling to the woman about the medical risk of termination of a pregnancy and of carrying a pregnancy to term. This medical practitioner must also offer an opportunity of referral for counselling prior to and following a pregnancy termination or carrying a pregnancy to term.

**Dr D.J. Honey:** I just want to get some information. Are they given information about help services that are available, as in help or assistance that is available to them?

**Mr R.H. Cook:** Section 334 of the Health (Miscellaneous Provisions) Act states that the doctor is required to.

**Ms S.F. McGURK:** Thank you. The Minister for Health has just given me a helpful reference to legislation that says that doctors are required to give patients that information. I think this is important not only to inform the member about this debate, but also so that members understand that the last people who should have any right, let alone the skills, to provide that sort of advice to women or anyone going into an abortion clinic are protesters outside a clinic. They are the last people. In fact, examples of people who may have been pressured into obtaining an abortion are often used as a convenient excuse for pro-life protesters to meet their ends.

Although we have been clear that we are talking about safe access zones and not the substance of the pro-abortion laws in Western Australia, the reality in the United States, for instance, is that it has not taken long for the extrapolation to be made very widely and the debate to be held very fiercely in the public domain. In fact, given the current composition of the United States’ Supreme Court, it is predicted that the 47-year-old *Roe v Wade* decision, which allows legal abortion in America, will be challenged. If the *Roe v Wade* decision is overturned, we can expect a large number of states in the US to seek to reverse the right for women to control their own fertility and the timing and number of children they have, and that will include the criminalisation of abortion. It has been widely discussed that that is a key agenda of the conservative right in the United States and is one of the reasons it backed the outgoing President of the United States, Donald Trump, even though he has demonstrated at every opportunity that his values are diametrically opposed to the values that many Christian-right advocates support.

When we are talking about safe access zones, we want our position on these principles to be crystal clear in Western Australia—that is, the right for women to control their own bodies, their fertility and the number and timing of any children they have, and their right to access abortion in an affordable and safe way. In fact, in the lead-up to this debate, I read a report from Amnesty International that made the point that women have abortions all the time, regardless of what the law says. Amnesty International estimates that a quarter of all pregnancies end in abortion. In fact, Amnesty International made the point that the number of abortions does not largely differ between countries or states that either criminalise or decriminalise abortion. The question is whether abortions are done safely and women are given proper counselling and support. These sentiments are diametrically opposed to those expressed by the religious right, who believe it is their duty and obligation to inflict their views on others. I am here to say on behalf of myself and many other women that we are not interested in having those views inflicted upon us. I am very proud of the Western Australian Labor government for bringing the Public Health Amendment (Safe Access Zones) Bill before Parliament.

**MR R.H. COOK (Kwinana — Minister for Health)** [1.33 pm] — in reply: I would like to take this opportunity to close off the second reading stage of this debate on the Public Health Amendment (Safe Access Zones) Bill 2020. I sincerely thank all members for their contributions. I think it is a testament to this place that so many perspectives can be brought forward, whether it is the perspective of those who have friends or relatives who have accessed abortion services or those who have—I am trying to put it as delicately as I can—more of a religious perspective, or

Ms Libby Mettam; Dr David Honey; Ms Jessica Shaw; Mr Mark Folkard; Ms Simone McGurk; Mr Roger Cook;  
Mr Zak Kirkup

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those who have a law enforcement perspective. The contribution of the member for Burns Beach was very powerful in providing us with some insight into the context in which a lot of people access these legal medical services. I want to take the opportunity to thank everyone for their contribution—I mean that sincerely—and for the careful consideration they brought to this debate. I think it would be remiss of me not to mention the contribution from the member for Armadale, who provided us with a great legal lecture. I hope people were taking notes, ready for end-of-semester exams!

I want to go to the heart of one of the key issues that was raised in this debate—that is, the timing of this legislation. It is very important for people to note that the government has done nothing to dampen the speed with which it wanted this legislation to come to this place. The bill has simply been the victim of the constitutional processes, the parliamentary processes and, of course, the social and health context in which we are all operating. As the member for Swan Hills said, this is something I put on the agenda very early on in the piece, in early 2017. I expressed a personal view that I believed it was an important reform that we needed to consider in Western Australia. That position was endorsed by the state Labor Party later in 2017. However, soon after that it became very clear that the legislation in Tasmania and Victoria would be challenged. As impatient as I am often accused of being with these processes, we simply had to wait and see the outcome of the challenge to the Victorian legislation in particular. As a result, we had to spend the best part of 2018 and early 2019 waiting for those legal processes to be resolved. In April 2019, the High Court decision was handed down. Following that decision and the affirmation of the validity of the Victorian legislation, as fast as we could, we published a discussion paper around which our public consultation would take place. Many people have acknowledged the exhaustive consultation that took place around this legislation. I thank them, because I am very proud of the work the Department of Health did to make sure it got good community perspectives and good community buy-in to this legislation.

A number of members have acknowledged the amount of feedback the department received. There was overwhelming feedback that people supported this legislation in this form and thought it should be brought forward and considered by the Parliament. In February this year, the WA government committed to legislating safe access zones but, of course, as everyone is aware, we then had the global COVID-19 pandemic. It will not surprise members to hear that our entire parliamentary counsel resources—that is, the resources we use to draft regulations, laws and directions under the Emergency Management Act—were consumed by the task of dealing with COVID-19. Indeed, the Department of Health shelved a lot of policy initiatives to make sure that all guns were blazing on the existential threat we were all experiencing from COVID-19. We have brought this legislation to this place at the earliest possible opportunity. I would have loved to introduce this legislation earlier this year, as we are all well aware of the importance of finding a legislative solution to this problem, but, unfortunately, COVID-19 and the High Court challenge simply meant that that was not possible. However, we have now brought it here. The member for Cottesloe asked why it was not on our list of priority legislation. We know that we have a limited number of sitting days in both this and the other place. Obviously, we could not put something down as a piece of priority legislation when it has not even been considered by this Parliament yet, but the other issue is that we have other legislation that we need to consider as well. We have to strike a balance with other COVID laws, legislation which is already on foot and legislation such as the passing of the state budget. They obviously take precedence over this legislation. We could put this in as a priority piece—we could put it in as the biggest priority for the government—but we know what will happen, because we have seen it happen time and again. Socially progressive legislation gets frustrated and stymied in the other place through the course of the debate, particularly by individuals within the upper house who are part of the dominant faction inside the Liberal Party nowadays—the extreme religious right, which is now dominating that house.

**Dr D.J. Honey** interjected.

**Mr R.H. COOK:** I assume that the member for Cottesloe is a member. I know that the member for Dawesville is not a member of that faction, but we sometimes wonder about the member for Cottesloe. The member for Cottesloe is a thoroughly decent individual, but we do wonder about his allegiances within the party.

I want to address some of the issues raised by members, in particular the members for Dawesville and Central Wheatbelt, who raised some important issues that I wish to now clarify. The member for Dawesville raised concerns about the possible need for signage or demarcation around abortion clinics. As part of the implementation process, all health services in WA that provide abortion services will be notified and provided with information to assist them to prepare their premises if they wish to. Specific decisions regarding potential signage that could be added outside an abortion clinic is to be left to the discretion of the service being protected. Depending on the location of the clinic, the area around it that falls within a safe access zone might be public land managed by a relevant local government. If any signage or demarcation might be needed, it would be something for the clinic to discuss with the relevant local government and WA Police Force. I would like to stress that we are not aware of official demarcation or signs being used around abortion clinics in other jurisdictions. Also, that type of signage could potentially attract more attention to those abortion clinics, which might work against the purpose of the bill, which is to provide privacy

Ms Libby Mettam; Dr David Honey; Ms Jessica Shaw; Mr Mark Folkard; Ms Simone McGurk; Mr Roger Cook;  
Mr Zak Kirkup

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for and protect the dignity of people who need to access those clinics. Therefore, those types of measures will need to be considered carefully as part of the implementation phase of the legislation.

The member for Dawesville also raised a concern—I think this is a really important point—about ordinary people making recordings within safe access zones and publishing them on an online platform such as TikTok, which the member referred to in a way that gave me the impression of a somewhat mature individual back in the 1950s referring to “that rock music”.

**Mr Z.R.F. Kirkup:** It’s a little too young for me!

**Mr R.H. COOK:** All that “A-wop-bop-a-loo-bop” stuff. “I’m not quite sure what it is, but this TikTok thing, which I understand involves videos”, says the member for Dawesville. The member for Dawesville is the TikTok generation—please!

**Mr Z.R.F. Kirkup:** It’s younger than me!

**Mr R.H. COOK:** Embrace your generation!

**Mr A. Krsticevic** interjected.

**Mr R.H. COOK:** The member for Carine is definitely not the TikTok generation, and I strongly advise him to avoid such social media forums. The point the member for Dawesville is making is that a person could unintentionally capture someone’s image and therefore identify them, essentially by mistake, and therefore potentially fall foul of the legislation. I want to emphasise that the proposed section, which is clause 202Q in the bill, sets out several tests that will need to be met before someone might commit the publishing offence. The offence requires that the recording contains particulars that are likely to lead to the identification of the woman as someone accessing premises at which abortions are provided. A recording that unintentionally captures a woman in the background who might be walking along the street towards an abortion clinic, for instance, is unlikely to be captured as an offence under the bill, unless, for example, the person who has taken the video specifically describes her as someone who is heading towards an abortion clinic to undergo an abortion. The simple concept of filming someone in the street outside of that context would not fall foul of that provision. In addition, the offence provision contains a “reasonable excuse” exemption, which, if needed, would also cover and exclude various scenarios such as the one the member raised.

The member for Dawesville also raised the issue of a lack of a mechanism in the bill to extend or reduce the size of a safe access zone. Submissions during the community consultation process indicated significant support for a zone of no less than 150 metres. We do not want WA to have less protection than the norm in most states. I think the member for Burns Beach made the observation that he would not mind if it was three times the distance of 150 metres. Certainly, we consider the location of the main private abortion providers in WA and the patients and staff who access these services. Although we understand that a distance of 150 metres may not cover all patient and staff access points to premises at which abortions are provided, a zone that was larger than 150 metres would make it harder for demonstrators to distinguish patients and staff from a passer-by. The vast majority of jurisdictions in Australia did not identify any need to include such a mechanism in the legislation. The distance of 150 metres is essentially consistent with legislation in other states.

The member for Central Wheatbelt sought clarification on the rationale behind the penalties prescribed in the bill. The proposed penalties reflect the potentially serious nature of offences such as intimidating, harassing and recording people who are accessing abortion services for the purpose of shaming and humiliating them. The penalties are broadly consistent with the safe access zone laws introduced around the country. The proposed fines are in the mid-range of penalties applicable to safe access zone offences in other jurisdictions and the imprisonment penalty is consistent with the majority of other jurisdictions. The proposed penalties are also consistent with the penalties under the Criminal Investigation Act 2006 for breaching a move-on order. A maximum of 12 months’ imprisonment penalty will also enable WA police to obtain identifying particulars from an adult if there is a need for that. It is also important to stress that the penalties attached to the offences prescribed in the bill are maximum penalties, and the judiciary has discretion about which sentence to impose. The police are not obliged to proceed with those penalties in the first instance that something occurs; they have the ability to caution people or give a move-on notice. Therefore, we took the view that the penalties are proportionate to the nature of the conduct that we are wishing to address.

The member for Central Wheatbelt also raised the issue of why the legislation has taken so long to come to this place. I think I have covered that in the context of the journey on which this legislation has been. The member sought advice on challenges in other legislation and how they were remedied. Those were resolved in the High Court.

I also want to acknowledge the member for Central Wheatbelt’s recognition of Trevor Khan in New South Wales. Mr Khan was instrumental in the success of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 in New South Wales and co-sponsored the bill in that state. Equally, apparently the support of

Ms Libby Mettam; Dr David Honey; Ms Jessica Shaw; Mr Mark Folkard; Ms Simone McGurk; Mr Roger Cook;  
Mr Zak Kirkup

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the Country Women's Association in New South Wales was also critical to the success of the passage of the safe access zones bill in New South Wales.

I will briefly touch on the member for Armadale's contribution to this debate. As I said, he distinguished himself, as one would expect an academic law lecturer to do. I will not go over the High Court ruling in detail as I think that has already been well summarised, but I share his desire that we do not become like America and allow behaviour outside abortion clinics to escalate. An article in *The New York Times* in November 2015 titled "A Brief History of Deadly Attacks on Abortion Providers" stated that between 1993 and 2015, 11 people were killed in deliberate attacks on clinics. Let us not embrace that future.

One of the other points the member for Armadale made—I paraphrase him—was that he did not understand the objective behind protesting outside clinics: it does not change the laws. That is a telling observation. It simply traumatises and often re-traumatises women who have already made the difficult decision to attend the clinic. As reaffirmed by others, safe access zones do not prevent protesters from protesting; it just means that protesting outside clinics is not the place to do that. People should focus on the issue, not the individuals. The member for Mirrabooka said that if people want to enter the political arena, they should do so in an appropriate forum. Outside abortion clinics that people have to attend to obtain a legal medical service is not the place to undertake that sort of political debate.

On the subject of sidewalk counselling, as the member for Mirrabooka pointed out, counselling is supposed to be a voluntary service that people seek when they want it, not something that is thrust upon them unsolicited. With regard to the member for Cottesloe's concerns about women experiencing abortion against their will, section 334 of the Health (Miscellaneous Provisions) Act provides that a doctor is required to counsel women on the possible side effects of the termination as well as the potential risks and complications involved in continuing with a pregnancy, and the doctor must offer women counselling if they would like it, and let them know about counselling that is available pre-termination and post-abortion. There is also a requirement for women to give informed consent before an abortion is performed. We must always remember that all individuals involved in a therapeutic relationship must do so in an ethical way and in a way that does not compromise the opportunity for people to make decisions.

I thank the member for Morley for her remarks about the reproductive rights of women and the importance of those rights being asserted in law, and also for her observation—this point was made also by the member for Swan Hills—about the impact of the previous government's decision to award a contract to a provider that could not provide full services within a health service. I think the solution the Barnett government came up with under the circumstances was as good as it could get, off the back of what was a lamentable decision in the first instance. I commend the people at Marie Stopes Australia for the work they do.

I loved the member for Belmont's observation that this legislation is good commonsense: this is just what well-meaning people would put in place to make sure that people can avoid the dreadful experience of being harassed when accessing those services. I commend her for bringing to this place strong, personal experiences of intimidation and trauma.

The member for Southern River highlighted the importance of the impact on staff. We should not underestimate the impact felt by healthcare workers who provide a very important service. They should not be humiliated, attacked and victimised when providing a therapeutic service. The member for Burns Beach eloquently described, through his personal experiences, why we simply cannot rely on current laws to provide the protections we need and why, as a result, this legislation needs to be brought forward.

I thank all members for their contributions. This goes beyond the parties. I thank the Labor Party and the Nationals WA for committing to this legislation as blocs within this place. I implore all members of the other political parties who have committed themselves to a conscience vote to examine their conscience and to accept that this is important legislation. As many members have said, the legislation is about compassion and providing people with the right to access a legal health and medical service and, as a result of that, they should be protected and they should enjoy the full protection of all of us in this place under the laws that we can provide.

I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

*Third Reading*

**MR R.H. COOK (Kwinana — Minister for Health)** [1.55 pm]: I move —

That the bill be now read a third time.

**MR Z.R.F. KIRKUP (Dawesville)** [1.55 pm]: Noting the time, it is important to reflect that earlier I indicated to the government that the opposition would not go into consideration in detail. I appreciate the need for the Public Health Amendment (Safe Access Zones) Bill 2020 to be dealt with before question time today. I will not slow down that process, largely because a lot of the concerns I raised in my speech were answered by the Minister for Health, particularly about signage and the nature of recording somebody on a phone. I appreciate that specific circumstances would need to be raised for that to become a concern.

I note also that the reduction or expansion of the zones is largely based on the Queensland Law Reform Commission report that states that that option should be available to the Queensland government. I can imagine the circumstances that might exist in Western Australia. Currently, we are essentially legislating for two private operators, in Rivervale and Midland, but other private clinics may operate from time to time in the future and the need might arise for ministerial discretion over those zones. Any suggestions from me are based entirely on my support for that, but observations were made by the Queensland Law Reform Commission. I appreciate the contributions of members opposite. I will not buy into some of the language they used about the factions of parties. I think that is an unnecessary burden on what is otherwise important legislation that I commend to the house.

**MR R.H. COOK (Kwinana — Minister for Health)** [1.57 pm] — in reply: I thank the member for Dawesville for his contribution and I acknowledge his support and the support of the member for Vasse; they both stood in this place to commit themselves to the legislation. As I said, it is very important legislation. I hope it will rise above the troubled waters of politics, but even legislation of this importance could be caught up in the choppy froth of legislative debate. It would be lovely to think that we could consider this legislation in full before the election. Lamentably, I think we will lose that opportunity, but that is okay because the Parliament has today demonstrated that this bill has widespread support. If the Labor Party is lucky enough to be on these benches in this place after the next election following the verdict of the Western Australian people, we will obviously bring in this legislation forthwith and ensure that it is made law as early as possible in 2021. Should we not be so lucky, I am confident that those on the other side will take the opportunity to secure this thoroughly decent legislation for the women of Western Australia, ensuring that they have the proper protections to access legal medical procedures that they deserve—albeit, as the member for Dawesville observed, in one of just two places in Western Australia. Because this process is rare, we should have legislation to ensure the protection of those who access those services.

Nearly all speakers have carried themselves with dignity during this debate, and that is a very important point. If there is the opportunity for the bill to pass speedily through the other place, I am sure the offer will be made by the parliamentary leaders there, having observed the widespread support that this legislation has received in this place. In conclusion, I commend this bill to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.