

Subject: FW: PART 3 Oppose PHW (Safe access zones) Bill 2015
Attachments: Compatibility Statement Review by JO Nov15.doc

From: Jeremy Orchard [REDACTED]
Sent: Monday, 9 November 2015 12:32 PM
To: [REDACTED]
Subject: PART 3 Oppose PHW (Safe access zones) Bill 2015

Dear Honourable Members of the Legislative Assembly,

It is fair that the Helpers have a right of reply to the Statement of Compatibility and the arguments presented by it. While the following is not intended to be an exhaustive list, the points made establish enough doubt as to the need for the Amendment. Please oppose the bill. I also request that there be a free/conscience vote on the Bill for all Members. I have seven points to make, which are described in more detail in the attached document. Thank you.

1. The SARC report (Alert #10) has numerous concerns about the Bill. Also see #14, to be issued tomorrow.
2. Redundant sections of the Amendment s.185B (a) & (c) already appear in the current law: Summary Offences Act 1966
3. Allegations of Helpers behaviour, but (in 23 years) no Helper has ever been charged by the authorities
4. Filming outside clinics detailed in the Helpers Submission - done in self defense to protect against false accusations (but the reasons misrepresented in the Statement and the bill)
5. The Helpers are often slandered, we had no part in the 2001 murder at FCC. See Justice Teague's ruling.
<http://www.austlii.edu.au/au/cases/vic/VSC/2002/498.html>
6. The existing law *Summary Offences Act 1966* section 17 is sufficient to prosecute behaviour that causes distress or anxiety (equated with insulting or offensive), making Amendment s.185B (b) redundant
7. On page 4 the statements around public prayer (the Charter right to practice beliefs) are unclear and potentially unravel the entire argument put forward that seeks to prevent designated communications in the 150 metre zone.

Thank you for taking the time to read my points.

Yours sincerely, Jeremy Orchard, [REDACTED]
[REDACTED]

Statement of Compatibility Review:
Public Health and Wellbeing Amendment (Safe Access Zones) Bill 2015

It is fair that the Helpers have a right of reply to this Statement and the arguments presented. While the following is not intended to be an exhaustive list, the points made establish enough doubt as to the need for the Amendment. Please oppose the bill.

1. The Scrutiny of Acts & Regulations Committee calls into question parts of the Amendment, particularly a 'safe access zone' that is 150 metres in size. Although the report on this Amendment/bill is not available at this time, their previous report (in Alert #10) http://www.parliament.vic.gov.au/images/stories/committees/sarc/Alert_Digests/Alert_Digest_No_10_of_2015.pdf regarding the Public Health and Wellbeing Amendment (Safe Access) Bill 2015, a private Members bill, is relevant because of the similarities between the two. Its findings include:
 - o "The Committee refers to Parliament for its consideration the question of whether or not.....— by prohibiting a person from communicating about reproductive health services within 150m of premises at which such services are provided in a manner that is observable by people accessing those premises, and the associated penalty, — is a suitable, necessary and proportionate limitation on the implied freedom of political communication." (page 6). This is calling into question whether or not there is a burdensome restriction on the right to free speech (authorized by our Constitution) that the Amendment may cause.
 - o SARC makes a similar finding/calls into question this same point above as to whether or not it is a lawful restriction on the Charter's right (Charter of Human Rights and Responsibilities Act 2006) to freedom of expression that is reasonably necessary to protect privacy rights and public health (pages 6-10)
 - o SARC calls into question the inconsistent penalty of 120 units (\$18,000) for impeding a footpath when the *Summary Offences Act 1966* authorizes a penalty of 5 units (\$750). This is on pages 10, 11
2. The Amendment has redundant sections i.e. they are already present in the current law. On page one, the Amendment proposes new section 185D with definitions of prohibited behaviour, s. 185B which has sub-sections (a) through (e). However sub-sections (a) and (c) already appear in the current law: *Summary Offences Act 1966*. For instance, sections of this Act include: s.4(e) & s.5 obstructing; s.6(1)(a)breach the peace(b)endangering others' safety(c)risk to public safety; s.7(e)trespass; s.17 obscene, indecent, threatening, insulting, abusive language and behaviour, disorderly conduct; s.23 common assault; s.52 besetting premises, obstructing, hindering, impeding; s.60AA police may serve infringement notice.
3. No Helper has ever been charged with these aforementioned sections of the *Summary Offences Act* or been given an infringement notice. Despite this, on page 2, it says regarding alleged behaviour "free expression in ways that do not respect the rights or reputation of others and which impact upon the public order around clinics." And "there have been numerous incidents of women and their support people being confronted by persons outside clinics seeking to denounce their decision. This extends to harassing and intimidatory conduct," "forcing written material upon them despite a clear unwillingness to receive that information, and verbal abuse." And on page 3, allegations of conduct that clearly violate the *Summary Offences Act* (for which no Helper has ever been charged): "staff of abortion clinics have experienced sustained harassment and verbal abuse over many years, often being followed to or from the premises, or being physically blocked from entering the premises." As a possible solution for law enforcement, the Helpers have no hesitation in suggesting the installation of security cameras outside abortion clinics (particularly FCC East Melb.), which would enable verification of these allegations.

4. The Helpers Submission has been ignored regarding filming outside clinics, as the Helpers have done this as a means of self-defense and as a way of proving our innocence against false accusations. On page 5 second paragraph it says “the intimidatory conduct currently engaged in by some persons through taking recordings with the explicit or implicit threat of publicly exposing individuals who access lawful abortions or provide those health services” is a complete misunderstanding and misrepresentation of the Helper’s intent and actions.
5. On page 3, the facts of the mentioned fatal shooting case do not support the need for this Amendment. In the trial of the 2001 murder of security guard, Steven Rogers by Peter James Knight, the ruling by Supreme Court judge, Justice Bernard Teague includes the following statements about P. J. Knight: “You chose to live the life of a hermit, in almost complete isolation from the community.” “You were a loner on a personal crusade when you went to the clinic.” <http://www.austlii.edu.au/au/cases/vic/VSC/2002/498.html> The Helpers had no part in this crime. Mentioning this incident is misleading and misrepresents/slanders the activities/behaviour of the Helpers.
6. On page 3, paragraph 3 the existing laws are described as being inadequate. On the contrary, the existing provisions of current laws e.g. the Summary Offences Act 1966, section 17, are sufficient as they do give the power to law enforcement authorities to prosecute words/behaviour that cause distress or anxiety (which equate with offense, insult, feeling abused) to people. The nature/ circumstances of alleged behaviour surrounding any situation (including the allegation that “such conduct has often extended to criminal conduct” page 3) may be straightforward, complex or somewhere in between. Whichever the case, this should not prevent the public education and enforcement of the law which addresses the situation (the *Summary Offences Act*, which, like other laws is written to prevent/ educate about unlawful behaviour before it occurs, as well as to enforce it after it occurs). The Helpers deny the statement that we are denouncing decisions/behaviour; we are providing offers of help. If others see it differently, they have the right to request that the authorities address the matter. There is no hesitation in making the suggestions that security cameras be installed outside the East Melb FCC clinic (the one which has almost all the focus) or any clinic, that individuals make use of their mobile phone technology, that public awareness campaigns by the authorities or businesses be conducted to educate on such matters as “know your rights”. The Helpers are continually maligned and slandered in the press with accusations of unlawful behaviour. This causes us significant distress and anxiety. Our redress is to the current law.
7. On page 4 (fourth paragraph), the statements around public prayer are unclear, although they appear to allow prayer under set conditions. The Helpers lawfully/respectfully pray outside clinics. This is consistent with the Charter, s.14(1)(b) . How is it to be determined as to whether or not, this activity alone (which has no communication about abortion) will be reasonably likely or unlikely to cause distress or anxiety in patients, the public or staff? These statements in the fourth paragraph potentially unravel the entire argument to prevent all communication on abortion/ pregnancy support. In other words, because it points to the subjective nature of people’s response to the topic of abortion/ pregnancy support, the same could be said about such response to prayer. This leads to the following likely scenario. Will someone’s reaction/response of distress or anxiety as a result of seeing someone silently praying, result in the person praying being removed and charged with an offence and thus effectively cancelling the right to freedom of religious practice, per s.14(1)(b) of the Charter. This is an untenable situation. This scenario could just as easily be applied to all communications in a safe access zone. Someone just needs to misunderstand (or distort) what they heard, say they feel distress, anxiety; an individual is then reported and charged, thus having the effect of cancelling freedom of speech. Therefore, the Amendment Section 185B(1)(b) “communicating by any means in relation to abortions in a manner that is able to be seen or heard by a person accessing, attempting to access, or leaving premises at which abortions are provided and is reasonably likely to cause distress or anxiety” is a flawed proposal.