



# Safe Access Zone Laws and Court Injunctions in Canada (to protect abortion access)

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## Benefits of Safe Access Zones

The [benefits of safe access zones](#) include:

- Protecting the safety, dignity, and privacy of patients
- Protecting the safety and privacy of providers, both at work and at home
- Protecting the right to access healthcare services
- Protecting patients' health by reducing the risk of complications  
(due to [emotional distress from the presence of protesters](#))
- Protecting the privacy and safety of providers and their families at home
- Protecting the clinic and property from destruction and vandalism
- Fostering community peace by reducing neighbourhood nuisance and noise
- Reducing traffic problems, hazards, and accident risk
- Potentially reducing anti-choice violence and harassment
- Potentially lowering the levels and impact of anti-choice activism in general
- Minimally impacting the protestors' freedom of speech, as they are free to protest elsewhere,  
outside of the bubble zone or away from the clinic

# Safe Access Zone Laws

*Also called “bubble zone laws” or “buffer zone laws”.*

*Note: The provinces are listed in the order in which they passed their laws.*

All the safe access zone bills and laws described below are based on BC’s law and have very similar wording, except for Quebec’s, which was nevertheless inspired by BC’s law.

BC’s law was passed in 1995 and upheld as constitutional in 2008 by the BC Court of Appeal. It wasn’t until 2016 that the next safe access zone law was passed, in Newfoundland & Labrador.

## British Columbia

The *Access to Abortion Services Act* was passed in 1995 after years of heavy and aggressive protesting at two clinics, especially Everywoman’s Health Centre, and also in response to the shooting of provider Dr. Gary Romalis in November 1995.

The Act creates "access" zones around facilities that provide abortion services, the homes and offices of doctors who provide abortion services, and the homes of other abortion service providers (e.g., clinic staff). The dimensions of these zones are calculated from the edge of the lot on which the home or facility is located and are set at:

- 160 metres for a doctor's or service provider's home
- 10 metres for a doctor's office (which can be extended up to a maximum of 20 metres through an Order in Council)
- up to a maximum of 50 metres for a facility (the distance to be determined by Cabinet; facilities must apply for a zone so it can be customized)

Within those access zones, it is an offence to engage in any of the following activities:

- sidewalk interference
- protesting
- besetting
- physical interference with, or attempted interference with, a patient, doctor, or abortion service provider
- intimidation of a patient, doctor, or abortion service provider

Homes and offices of abortion providers are automatically protected, while facilities must apply for a zone. Currently, only three clinics are protected by the bubble zone (no hospitals): Everywoman’s Health Centre, Elizabeth Bagshaw Women’s Clinic, and Vancouver Island Women’s Clinic.

### Links:

Law: [http://www.bclaws.ca/civix/document/id/complete/statreg/96001\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/96001_01)

*Pro-Choice Press*, Winter 95-96. See first four stories: <http://www.prochoiceactionnetwork-canada.org/prochoicepress/9596win.shtml>

## Arrests and Legal Challenges:

Anti-abortion protester Maurice Lewis was arrested in 1995 and convicted in 1996 of violating the bubble zone. Lewis appealed the decision but died before his appeal could be heard. The 1996 Lewis decision by Justice Mary Saunders contains a comprehensive account of the evidence supporting the Act. This case and its evidence was adopted into a new appeal by protesters Donald Spratt and Gordon Watson (by Justice Koeningsberg):

- Dec 17, 1998 - Donald Spratt and Gordon Watson are arrested outside Everywoman's Health Centre for holding anti-abortion signs within the access zone.
- Aug 8, 2000 - Watson and Spratt are convicted of breaching S. 2(1)(a) and (b) of the Act.
- Jun 29, 2004 - Watson and Spratt are granted leave to appeal by the BC Court of Appeal, solely on freedom of expression grounds.
- Sep 13/14, 2007 - Appeal heard.
- Sep 5, 2008 - Appeal lost, bubble zone upheld.

(Other protesters were arrested and convicted between 1997 and 2001, including Kevin Pielak, Jim Demers, Mary Wagner, Merle Terlesky, and Glenn Reed.)

In 2009, protesters Cecelia von Dehn and Donald Spratt were arrested outside the Everywoman's Health Centre. They claimed they were not protesting abortion, but distributing "neutral information" about the law that bans protesting within 50 meters of an abortion facility. They were convicted, and the judge said the protester's purpose was to test the law. The appeal court upheld their conviction in 2013, saying "The location is what makes their conduct impermissible," and agreeing with the trial judge's decision that their behaviour constituted protest as defined in the Act.

- 1996 Saunders decision, R. v. Lewis: <https://westcoastleaf.org/wp-content/uploads/2023/07/CASES-1996-R-V-LEWIS-Decision.pdf>
- Summary of the R. v. Lewis case by Westcoast LEAF: <https://westcoastleaf.org/work/r-v-lewis-1996/>
- Summary of R v. Spratt; R. v. Watson, 2008 BCCA 340: <http://www.westcoastleaf.org/wp-content/uploads/2014/11/CASES-2008-R-V-WATSON-SPRATT-Case-Summary.pdf>
- *Convicted anti-abortion protesters challenge clinic access zone (and lose)*. by Joyce Arthur, Pro-Choice Action Network. Sept 2007, revised Jan 2009. This is an account of the final appeal by protesters. They lost this case and appealed to the Supreme Court of Canada, which declined to hear the appeal. This means the Act stands as constitutional. <http://www.prochoiceactionnetwork-canada.org/articles/bubble-zone-case.html>
- 2013: *Abortion protesters who thought they found loophole in 'bubble zone' law lose B.C. appeal* <https://nationalpost.com/news/canada/abortion-protesters-who-thought-they-found-loophole-in-bubble-zone-law-lose-b-c-appeal>

## Newfoundland & Labrador

The Newfoundland & Labrador *Access to Abortion Services Act* was passed in November 2016. It is nearly identical to the BC Act, and was the first safe access zone law passed after BC's.

Athena Health Centre, the abortion clinic in St. Johns, had moved in 2015 and became besieged by protesters. The clinic began to collect evidence and do research, and met with government ministers to get support. The Justice Minister advocated the law in public, and in the meantime before it passed, the

clinic was given an injunction to protect patients. The government adapted BC legislation because BC's law had already withstood constitutional scrutiny by the courts.

#### Links:

Law: <https://www.canlii.org/en/nl/laws/stat/snl-2016-c-a-1.02/latest/snl-2016-c-a-1.02.html>

*Bubble Zone Gets Royal Assent: NL Becomes Second Canadian Province to Have Bubble Zone Law.* The Overcast. By Elizabeth Whitten. December 28, 2016. <https://theovercast.ca/bubble-zone-gets-royal-assent-nl-becomes-second-canadian-province-to-have-bubble-zone-law/>

*Anti-abortion protest 'bubble zone' law on the right side of Charter: lawyer.* CBC News. Jun 20, 2016. <http://www.cbc.ca/news/canada/newfoundland-labrador/anti-abortion-protest-jonathan-mcdonald-bubble-zone-law-1.3643249>

## Quebec

The Morgentaler Clinic in Montreal had been protected by an injunction for years, but it needed regular renewal and the process was very costly. In 2015, the clinic moved to the same building as Clinique Médicale Fémina, and the injunction then covered both clinics. Protesters openly said they would start picketing other clinics, so at least one other clinic went to court and got an injunction too. The Morgentaler Clinic then decided to pursue a provincial bubble zone law, and got the support of the Health Minister, who ended up adding the law to another law related to drug marketing. The National Assembly of Québec unanimously passed Bill 92 on Dec 7, 2016, without fanfare. Although inspired by BC's law, it is not a copy of it.

The Act amends a number of statutes, including the *Health Services and Social Services Act*, to prohibit impeding access to a place where health or social services are provided, and demonstrations in the vicinity of places where voluntary abortion services are offered. It is forbidden for any person to "demonstrate, in any way, or perform any other form of intervention in an attempt to discourage a woman from obtaining [a voluntary abortion] or to contest or to condemn their choice of obtaining it "within 50 meters of an abortion clinic in Quebec". Anti-abortion protesters who violate the "security perimeter" will be subject to a fine of \$250 to \$1,250. Those who, in addition, "threaten or intimidate a person who goes" to a clinic where abortions are practiced will incur a doubled fine of \$500 to \$2,500.

#### Links:

The links below are mostly in French. A Google Translate of the clinics' press release is also below.

**Projet de loi no 92** (2016, chapitre 28) : Note: The bubble zone law is one small part of the legislation.

English: *Chapter S-4.2, Act respecting health services and social services:*

<https://www.canlii.org/en/qc/laws/stat/cqlr-c-s-4.2/latest/cqlr-c-s-4.2.html>

Français: *Loi visant à accroître les pouvoirs de la Régie de l'assurance maladie du Québec, à encadrer les pratiques commerciales en matière de médicaments ainsi qu'à protéger l'accès aux services d'interruption volontaire de grossesse :*

<http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2016C28F.PDF>

CHAPTER I.1

ACCESS TO VOLUNTARY TERMINATION OF PREGNANCY SERVICES

2016, c. 28, s. 76.

16.1. No person may, within a distance of 50 metres from the grounds on which a facility or premises providing voluntary termination of pregnancy services are situated, demonstrate in any manner or in any other way intervene to

- (1) attempt to dissuade a woman from obtaining such a service or contest or condemn her choice of obtaining or having obtained the service; or
- (2) attempt to dissuade a person from providing, or from participating in the provision of, such a service or contest or condemn the person's choice of providing, or participating in the provision of, such a service or working in such a place.

531.0.1. Every person who contravenes section 9.2 or 16.1 is guilty of an offence and is liable to a fine of \$250 to \$1,250 in the case of a natural person or to a fine of \$500 to \$2,500 in any other case.

Every person who threatens or intimidates a person who is accessing, trying to access or leaving a facility or premises where voluntary termination of pregnancy services are provided is guilty of an offence and is liable to a fine of \$500 to \$2,500 in the case of a natural person or to a fine of \$1,000 to \$5,000 in any other case.

History of law (government site): <http://www.assnat.qc.ca/fr/travaux-parlementaires/projets-loi/projet-loi-92-41-1.html>

FQPN report, Jan 18, 2017: <https://fqpn.qc.ca/nouvelles/zone-de-protection-autour-des-cliniques-davortement/>

Press release from Quebec clinics, Nov 29, 2016: <http://www.newswire.ca/news-releases/creation-de-zones-de-protection-autour-des-cliniques-davortement---la-securite-et-lacces-aux-cliniques-davortement-enfin-protéges-603671486.html>

**English translation of clinics' press release:**

*Creation of protection zones around abortion clinics - Safety and access to abortion clinics finally protected*

MONTREAL, Nov. 29, 2016 / CNW Telbec / - The Morgentaler Clinic, the Clinique médicale Fémina, and the Alternative Medical Clinic applaud the unanimous adoption of measures to protect women's privacy, security and access to clinics Planning and abortion. In the context of clause-by-clause consideration of Bill 92, An Act to increase the powers of the Régie de l'assurance maladie du Québec, to regulate drug marketing practices and to protect access Voluntary abortion services, the government is creating areas in which women can access clinics without fear of being harassed or harassed by activists who challenge the right to abortion.

"We demand that the government not wait for an unfortunate incident to legislate. We are grateful that Minister Barrette has taken government leadership in these legislative changes. We also want to highlight the work of Carole Poirier, MP for Hochelaga-Maisonneuve, who was the first parliamentarian to table a bill to this effect last February, "said France Désilets, Executive Director of the Morgentaler Clinic.

With the creation of protection zones in the vicinity of family planning clinics, the government was able to protect women while preserving the freedom of expression of anti-choice activists. Thus, the government allows abortion-seeking women and health care professionals to do so safely and with respect for their right to privacy. Moreover, it does not ban the right to protest against abortion, but provides a framework for the places where such demonstrations can take place.

It should be noted that the three clinics had to multiply the interventions before the courts to keep away the demonstrators who were setting up at the very door of the clinics to discourage women who had chosen to interrupt their pregnancy. Nicknamed the "Pavement Shelters" and displaying placards and rosaries, they literally called on women. The Superior Court upheld the clinics and granted an interlocutory injunction delimiting a quadrilateral in order to keep the demonstrators at a distance who had declared in court that they could move in front of other clinics. Given the nature of the testimony presented by these groups, it is clear that their real wish is first and foremost to use the court as a forum to question the right to abortion.

Such legislation was demanded by many groups, which in February 2016 had signed a letter to the elected representatives.

Quebec joins two other provinces

Quebec therefore joined British Columbia, which passed an Access to Abortion Services Act in 1996 that defined a perimeter around abortion clinics where protesters can not demonstrate or question, nor harass, nor photograph the women and doctors of the clinics. This legislation also passed the Charter test in *Oakes (R. v. Oakes, [1986] 1 R.C.S. 103)*. On November 21, Newfoundland and Labrador acted on a commitment and enacted similar legislation.

## Ontario

Ontario Attorney General Yasir Naqvi passed a safe access zone law on Oct 25, 2017, after first announcing he planned to introduce one on May 29. The trigger was increasingly aggressive protests at the Ottawa Morgentaler Clinic.

The *Safe Access to Abortion Services Act, 2017* allows for safe access zones to be established around facilities that offer abortion services as well as the homes and offices of regulated abortion providers. It is based largely on BC's law and very similar to it, but with some additional features:

- Eight private abortion clinics in Ontario have automatic safe access zones of 50 metres, which can be decreased or increased up to 150 metres by regulation.
- Other facilities (hospitals, medical clinics, etc.) that offer abortion services can apply for safe access zones of up to 150 metres.
- Abortion providers have automatic safe access zones of 150 metres around their homes, including all staff at private clinics.
- Physicians who provide abortions have automatic safe access zones of 150 metres around their offices, regardless of whether they provide abortions at that location.
- Regulated health professionals who provide abortion services outside of clinics, including pharmacists, nurse-practitioners (and other health professionals who may be involved in abortion provision), will be able to apply for safe access zones of up to 150 metres around their pharmacies or offices.

Like BC's law, the Ontario legislation includes a general anti-harassment provision that protects clinic staff and abortion providers anywhere in Ontario.

However, since the law was passed, the Conservative government of Doug Ford has never approved any application from a facility or hospital. Only the original eight private abortion clinics are covered by the law. Advocates feared that Ford simply shelved the applications because he did not want to be seen as supporting either side in the abortion debate.

### **Links:**

The law: *The Safe Access to Abortion Services Act, 2017*: <https://www.ontario.ca/laws/statute/17s19>

Ontario A-G press release: <https://news.ontario.ca/mag/en/2017/10/ontario-passes-legislation-to-protect-womens-right-to-choose.html>

Abortion safe-zone bill passes third reading:

<https://www.thestar.com/news/queenspark/2017/10/25/abortion-safe-zone-bill-passes-third-reading.html>

ARCC's press release: "Abortion Rights Coalition of Canada Welcomes Bill to Protect Abortion Care Facilities in Ontario": <https://www.arcc-cdac.ca/arcc-cdac-release-oct4-17-english/>

### **Arrests and Legal Challenges:**

Anti-choice protester [Cyril Winter](#) was the first to be arrested for violating the Act in February 2018 by standing outside the Morgentaler Clinic in Ottawa. He was charged with eight offences under the Act. However, he died in April 2018 before his case went to court.

The arrest of a [second protester](#) in Ottawa was reported just two days later on Feb 9, 2018, but the protester's identity and the outcome of the case is unknown.

In October 2018, anti-choice protester [Tony Van Hee](#) challenged the law outside the Ottawa Morgentaler Clinic as well, and was charged for "intimidating or attempting to intimidate" a person accessing abortion service." That charge was later dropped, to be replaced with two charges under section 3 of the Act saying that no one can "inform or attempt to inform a person concerning issues related to abortion services, by any means, including oral, written or graphic means," and section 3(1)(c) that no one shall "perform or attempt to perform an act of disapproval concerning issues related to abortion services, by any means."

While the Ontario Attorney General's office assigned lawyers to defend the law and build a case, and statements and cross-examinations of witnesses and experts occurred, Van Hee's case apparently never went to court. An anti-choice article from the [Epoch Times](#) dated Oct 31, 2022, stated that Ontario dropped the charges against Van Hee because it was "not in the public interest" to pursue them.

## **Alberta**

Bill 9 — the *Protecting Choice for Women Accessing Health Care Act* — was passed on May 30, 2018.

Alberta Health Minister Sarah Hoffman had announced on April 5, 2018 that the NDP government would introduce a bill to establish safe access zones outside the two clinics in Calgary and Edmonton. The two clinics perform more than 75 per cent of abortions in the province and are regular targets for protesters. The clinics said that protests and disruptions had increased, and the court injunctions currently in use did not work as protesters frequently violated the injunctions, which had no enforcement power. In



Edmonton, the injunction didn't apply to the sidewalk, so protesters would block the sidewalk and force patients to walk around them.

- The law bans protesters within 50 metres of the Women's Health Options clinic in Edmonton and the Kensington Clinic in Calgary.
- The clinics can also ask for the zones to be extended to 150 metres, if required.
- Protesters are prohibited from taking video or photographs or making audio recordings of patients, doctors and staff entering or exiting the clinic.
- Doctors and other service providers may apply for a zone of up to 20 metres around their offices and 160 metres around their homes.
- The law carries the following penalties for protesters who violate the safe zones: first offence: \$5,000 or a maximum jail term of six months. Repeat offence: Maximum fine of \$10,000 and/or one year in jail. The fines for corporations caught violating the act is \$25,000 for a first offence, and a maximum \$100,000 fine for subsequent convictions.

### Links:

Law, *Protecting Choice for Women Accessing Health Care Act*:

<http://www.qp.alberta.ca/documents/Acts/P26P83.pdf>

Opinion: Safe-access zones at abortion clinics are constitutional, by Joyce Arthur, *Edmonton Journal*, May 31, 2018: <https://edmontonjournal.com/opinion/columnists/opinion-safe-access-zones-at-abortion-clinics-are-constitutional>

Alberta passes bill legislating 'safe zones' around abortion clinics, CBC News, May 30, 2018:

<https://www.cbc.ca/news/canada/edmonton/alberta-abortion-safe-zones-1.4684773>

Proposed buffer zones for abortion clinics needed to protect staff, clients: director, Calgary Herald, April 25, 2018: <http://calgaryherald.com/news/politics/proposed-buffer-zones-for-abortion-clinics-needed-to-protect-staff-clients-director>

## Nova Scotia

On March 11, 2020, Nova Scotia passed *An Act to Protect Access to Reproductive Health Care*, a safe access zone law that automatically establishes a zone of 50m outside healthcare facilities that do abortions, in which protesters are not allowed. The law was inspired by the activism of Megan Boudreau, a third-year psychology student at St. Mary's University, who noticed protesters outside the Victoria General Hospital in Halifax in the fall of 2019 and decided to take action. She created an online [petition](#) calling for a bubble zone around the clinic in Halifax, which eventually collected over 1,150 signatures. A paper petition with 140 signatures was also presented in Parliament.

On March 3, 2020, NDP MLA Claudia Chender tabled a safe access zone bill that was supported by all parties including the Premier and passed in just eight days without amendments. The new law is very similar to BC's law, except that facilities do not have to apply for a zone. They can apply to expand the zone up to 150m if needed. The law also allows the government to create protected zones around the homes and offices of physicians who perform abortions, and to prevent anyone from trying to dissuade physicians from providing abortions.

### Links:

Law: <https://nslegislature.ca/sites/default/files/legc/PDFs/annual%20statutes/2020%20Spring/c005.pdf>



*MLAs share emotional stories as Nova Scotia considers abortion bubble zones.* Taryn Grant. CBC News. March 5, 2020. <https://www.cbc.ca/news/canada/nova-scotia/nova-scotia-bubble-zone-law-moves-forward-in-legislature-1.5486297>

*Nova Scotia Passes Bubble Zone Law.* The Coast, by Claudia Chender. March 12, 2020. <https://www.thecoast.ca/halifax/nova-scotia-passes-bubble-zone-law/Content?oid=23657319>

*Pushing for a bubble zone law outside of Halifax's Women's Choice Clinic.* The Coast, by Kaija Jussinoja. December 12, 2019. <https://www.thecoast.ca/halifax/pushing-for-a-bubble-zone-law-outside-of-halifaxs-womens-choice-clinic/Content?oid=23028771>

## Manitoba

**A safe access zone law has recently been introduced in Manitoba but has not yet passed.**

On March 7, 2024, the Manitoba NDP government introduced a safe access zone bill, brought forward by Nahanni Fontaine, Minister of Families; and Uzoma Asagwara, Minister of Health, Seniors and Long-Term Care.

The bill is very similar to BC's and Ontario's except that any facility wishing protection must apply for a regulation (facilities would include pharmacies prescribing Mifegymiso). The law would automatically safeguard the homes and offices of providers.

- Bill 8: *The Safe Access to Abortion Services Act/Loi sur l'accès sécuritaire aux services d'interruption volontaire de Grossesse*: <https://web2.gov.mb.ca/bills/43-1/b008e.php>
- Manitoba introduces law to create protest-free zones near abortion clinics, March 7, 2024, Canadian Press: <https://www.cbc.ca/news/canada/manitoba/abortion-protest-restrictions-manitoba-legislation-1.7137091>

**Previous private member bills:** NDP MLA Nahanni Fontaine first introduced a private member bill in [Nov 2018](#) but it was defeated. She re-introduced it multiple times, including in 2020 and in Oct 2021. She re-introduced it in [Nov 2021](#), along with a bill to create buffer zones around hospitals, clinics, personal care homes, schools and other sites to prevent anti-vax protestors from creating problems. None of the bills ever passed:

- [NDP table bills to create protest buffer zones around abortion clinics, hospitals](#), Nov 29, 2021, *Winnipeg Sun*
- [NDP bill for abortion clinic buffer zones defeated in house](#), Oct 14, 2021, *CTV News Winnipeg*
- [Safe access zones at abortion clinics are constitutional and ensure privacy and safety](#), Oct 3, 2021, Abortion Rights Coalition of Canada
- Text of the bill: [The Abortion Protest Buffer Zone Act](#)

**Municipal zone:** In September 2021, Winnipeg City Councillor Sherri Rollins introduced a motion that calls for the city to enact safe access zones around clinics, hospitals, other health-care buildings and public schools. The zones would keep protesters at a 150-metre distance. The motion passed City Council in November with the directive for staff to prepare an administrative report to determine enforcement and logistics. (No news on this report as of March 2024.)

- <https://www.winnipegfreepress.com/breakingnews/2021/09/30/city-looks-to-curtail-protests-at-hospitals-schools>, Sept 30, *Winnipeg Free Press*

## Saskatchewan

### **A safe access zone law to protect abortion facilities and providers has not yet passed in Saskatchewan.**

A private member's bill was first introduced by MLA Jennifer Bowes in March 2021 (Bill 605) and re-introduced in Oct 2021 as Bill 608. The bill was very similar to BC's law. It collected over 30,000 signatures on an [online petition by ARCC](#). The bill did not pass.

However, in late 2021, in response to anti-vaccine protesters outside health centres during the pandemic, the government of Saskatchewan introduced and passed an amendment to the Public Health Act to prohibit protesters outside healthcare facilities generally. In Bill 48, *The Public Health (Safe Access to Hospitals) Amendment Act*, the government adopted large portions of Bowes's previous private member Bill 608. [Bowes pointed this out during debate](#), questioning: "why is the privacy and safety of those seeking or providing abortion services for some reason of lesser importance to this government?"

Although this *Public Health Act* amendment also protected abortion providers, it was unfortunately subject to a two-year time limit and was therefore repealed in 2023.

#### **Links:**

[Ban on abortion protesters outside clinics would protect patients and staff](#), Dec 9, 2021, *Saskatoon Star Phoenix*

[Sask. NDP wants 'bubble zones' to restrict anti-abortion protests](#), May 12, 2021, *Regina Leader-Post*

Text of Bill 605 (download): [Protecting a Woman's Right to Access Abortion Services Act](#)

Text of Bill 48 (download): <https://pubsskdev.blob.core.windows.net/pubsask-prod/130432/Bill-48-2021.pdf>

*Public Health Act 1994, P-37.1*, with the Bill 48 amendment listed in the Table of Contents but showing as repealed (download): <https://pubsskdev.blob.core.windows.net/pubsask-prod/1210/P37-1.pdf>

## Federal Criminal Law

On January 16, 2022, Prime Minister [Justin Trudeau announced](#) a new law coming into effect. With Bill C-3, the Criminal Code has been amended to make it illegal to intimidate healthcare workers and patients, or obstruct them from providing care or seeking treatment at locations where healthcare services are delivered.

Although the law was triggered by the aggressive actions of anti-vaccine protesters outside health facilities and COVID-19 vaccination sites, the law applies to protesters at any healthcare facility, including those that provide abortion. It also applies to any healthcare professional in any location where they are harassed, including their homes or online.

The federal law provides greater penalties for intimidation and obstruction than the existing provincial laws in six provinces, and may serve to deter abortion protesters in the other four provinces that have not passed safe access zone laws specifically for abortion facilities.

The law adds the following offences to the Criminal Code:

**Intimidation — health services. 423.2 (1)** Every person commits an offence who engages in any conduct with the intent to provoke a state of fear in  
(a) a person in order to impede them from obtaining health services from a health professional;  
(b) a health professional in order to impede them in the performance of their duties; or  
(c) a person, whose functions are to assist a health professional in the performance of the health professional's duties, in order to impede that person in the performance of those functions.

**Obstruction or interference with access. (2)** Every person commits an offence who, without lawful authority, intentionally obstructs or interferes with another person's lawful access to a place at which health services are provided by a health professional.

**Defence (4)** No person is guilty of an offence under subsection (2) by reason only that they attend at or near, or approach, a place referred to in that subsection for the purpose only of obtaining or communicating information.

**Key differences between the federal law and the provincial statutes:**

- **Location:**
  - Provincial laws are limited mostly to private abortion clinics and the offices of abortion providers. Hospitals and other facilities that provide abortions are generally not protected unless they apply for a zone.
  - Federal law automatically covers any place in Canada that provides healthcare.
- **Homes:**
  - Provincial laws create buffer zones around providers' homes.
  - Federal law prohibits intimidation regardless of location, which would protect homes and offices of healthcare workers, as well as online or other harassment.
- **Prohibited activity:**
  - Provincial laws prohibit the mere presence of protesters within the zones (in addition to intimidation, harassment, and threats). With the exception of Quebec's law, they also ban recording anything that occurs in the zone, as well as repeated communications to providers/patients in order to "dissuade" them.
  - Federal law criminalizes only "intimidation" and "obstruction", including threats and assaults – this means that "peaceful" protest is not illegal, it must be obstructive or induce a state of fear. But the federal law also allows these offences to be "aggravated factors" so that judges can increase the penalties.
- **Penalties:**
  - Provincial laws impose fines and/or a prison term of up to six months and up to one year for subsequent offences. (The Quebec law levies fines only.)
  - Federal law provides for prison terms of up to 10 years for an offence.
- **Size of zones:**
  - Provincial laws establish specific zones around abortion facilities (or homes/offices) that protesters cannot enter, ranging in size from 10M to 150M depending on the location.
  - Federal law does not require measured buffer zones at health facilities or other locations where health professionals are harassed.

## Links:

Bill C-3, passed on Dec 17, 2021: <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-3/royal-assent>

[Trudeau, Singh want to criminalize protests that block hospitals. But can they?](#) (explains why law is constitutional). September 13, 2021, *Global News*

Abortion rights group welcomes federal law protecting health facilities from protesters but says it's "way overdue", Abortion Rights Coalition of Canada press release, Jan 19, 2022: <https://www.arcc-cdac.ca/abortion-rights-group-welcomes-federal-law-protecting-health-facilities-from-protesters-but-says-its-way-overdue/>

## Court Injunctions

Nationally, only one clinic and one hospital are still protected by private injunctions, obtained by the facilities in court. The injunctions create a bubble zone area around the facility that prohibits or controls the presence of protesters.

### Alberta

Until the province passed its safe access zone legislation in May 2018, the two clinics (Kensington Clinic in Calgary, and Woman's Health Options in Edmonton) were protected by injunctions. The injunctions could still be validly applied if Alberta's safe access zone law is ever repealed.

The Calgary clinic's injunction was obtained in the early 1990's. It divided areas around the clinic into zones – a maximum of four protestors were allowed in certain areas, and a maximum of 20 protestors were allowed to gather across the street.

In Edmonton, an injunction was obtained in 1993 that prohibited picketing along the entire back alley behind the clinic, and half a block along the side street.

### Ontario's Dieleman Injunction

An injunction protecting the Cabbagetown Clinic in Toronto and four Ontario hospitals was mistakenly dismissed by a court in January 2017, but the Ontario Liberal government brought an urgent motion in June 2017 to reinstate it. However, the judge declined to do so, saying the matter required a hearing. This did not occur.

Then in October 2017, Ontario's *Safe Access to Abortion Services Act* passed, automatically protecting the Cabbagetown clinic (and 7 other clinics) but not the hospitals. If the hospitals do not apply and receive an access zone, the injunction could still protect them if it is reinstated.

The injunction, called the "Dieleman injunction", was originally obtained in 1994 for three clinics in Toronto: Cabbagetown, Scott, and Choice in Health. The latter clinic was no longer protected after they moved to a new location about 10 years ago, and the Scott Clinic closed in 2016 due to owner/doctor retirement, leaving only the Cabbagetown Clinic protected.

**Case Details:** Ontario (Attorney-General) v. Dieleman (1994) 117 D.L.R. (4th) 449 (Gen.Div.) O.J. No. 1864, Action No. 93-CQ-36131. Ontario Court of Justice – General Division, Toronto. Heard January 12-28, 1994. (not online)

The Dieleman injunction also protected four specific hospitals, including the Victoria Hospital in London and three other hospitals in the province (not named for security reasons). The injunction provided a 60-foot (18m) “no protest” zone around the hospitals, surrounded by a 100-foot (30m) “deep zone” of restricted access in which staff and patients had a 10-foot (3m) personal zone.

It also provided for a 500-foot zone (150m) around the homes of seven named doctors in the same cities as the four hospitals plus one other city, and a 15-foot zone (5m) around their office buildings. However, since many years have passed since the injunction was granted, it’s likely that at least some of these doctors are no longer alive or practicing, or no longer working/living at the addresses as recorded in the injunction. If not, they would no longer be protected by the injunction, if it ever comes back into force.

### **Morgentaler Clinic, Toronto**

This private injunction specifies a 500-foot zone (150m) around the clinic. The injunction is not location-bound and can move with the clinic. It is enforced by the sheriff rather than the local police.

The injunction remains valid and in force, even after the passage of Ontario’s *Safe Access to Abortion Services Act* in October 2017 (which provides only 50m zones outside 8 private clinics).

### **Chaleur Regional Hospital, Bathurst, NB**

In May 2017, the Chaleur Regional Hospital in Bathurst New Brunswick was granted a permanent injunction against protesters, by Court of Queen's Bench Justice Reginald Leger. The injunction bans protesters from demonstrating anywhere on the hospital grounds. The judge said that anti-abortion picketers affiliated with the “40 Days for Life” campaign had put the safety of patients and employees at risk.

The hospital is operated by Vitalité Health Network. It applied for the injunction after the anti-abortion group obstructed traffic at the hospital and forced an ambulance to stop enroute to the emergency department in 2012. At the trial, the ambulance driver described having to brake “as fast as possible” because a picketer at the hospital had stepped off the sidewalk. His co-worker was tossed toward the back of the ambulance, causing the mask on a patient suffering from cardiac discomfort to be dislodged.

**Link:** *N.B. judge bans anti-abortion group from protesting outside Bathurst hospital.* Canadian Press. May 29, 2017. <http://www.cbc.ca/news/canada/new-brunswick/anti-abortion-injunction-bathurst-hospital-vitalite-1.4136390>