



Abortion Rights
Coalition of Canada

*Your
Voice for Choice*

Coalition pour le droit à
l'avortement au Canada

Canada's only national political pro-choice advocacy group

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Position Paper #74

Safe Access Zones and Injunctions to Prevent Clinic Protesters

What are Safe Access Zones and Why Are They Necessary?

Also called “buffer zones” or “bubble zones”, safe access zones are measured areas around abortion provision facilities where anti-choice protestors are legally not allowed. The zones usually range from about 50m to 150m.

Why are they necessary? Unfortunately, when coming to a clinic for an abortion, women and transgender people often have to walk past protestors who may yell at them or harass them, sometimes even blocking their path, or following them to or from their car or bus stop.

Although there have been no serious incidents of anti-choice violence in Canada since 2000¹, no-one can know whether any particular protester might have a fanatical intent to express their viewpoint using violence – such as in 2015 at a Planned Parenthood clinic in Colorado².

Patients entering clinics are often frightened and anxious by the presence of even seemingly peaceful protesters³, and the emotional upset can negatively affect their health and safety as they undergo a medical procedure⁴. Safe access zones protect women from the emotional barrage and protect providers from the threat of violence.

¹ <http://www.arcc-cdac.ca/postionpapers/73-Anti-choice-Violence-Harassment.pdf>

² <https://www.nytimes.com/2015/11/28/us/colorado-planned-parenthood-shooting.html>

³ <http://www.aston.ac.uk/EasySiteWeb/GatewayLink.aspx?allid=256682>

⁴ <http://www.arcc-cdac.ca/presentations/protesters-increase-risk-of-medical-complications.pdf>

Safe Access Zones Across Canada

Please see the document *Bubble Zone Laws and Court Injunctions in Canada*⁵ for complete details on safe access zones and injunctions across Canada.

British Columbia

The *Access to Abortion Services Act* was passed in 1995 after years of heavy and aggressive protesting at two clinics and also in response to the shooting of provider Dr. Gary Romalis in November 1995. The act created access zones around facilities and the offices and homes of doctors and service providers. Facilities must apply for zones, while they are automatic around provider homes and offices. Within these zones, it is an offence to engage in sidewalk interference, protesting, besetting, physical interference, and intimidation.

After several court challenges, the Act was upheld as constitutional. Although it infringes freedom of expression, it does so in a justifiable manner under Section 1 of the *Charter of Rights and Freedoms*, because the restriction is narrowly drawn with the objective to protect the right to safety, dignity, and privacy of patients and providers.

Newfoundland and Labrador

The Newfoundland and Labrador *Access to Abortion Services Act* was passed in November 2016 and is nearly identical to BC's law. The Act was created out of the need to protect a specific clinic besieged by protestors.

Quebec

In the early 2000s, clinics in Quebec were forced to obtain costly injunctions against protestors. One clinic, the Morgentaler Clinic, decided to pursue a provincial bubble zone law and got the support of the Health Minister. The National Assembly of Quebec unanimously passed Bill 92 on Dec 7, 2016. It was also inspired by British Columbia's law.

Ontario

In October 2017, Ontario's Attorney General passed a safe access zone law. In recent years increasingly aggressive protests had occurred outside the Ottawa Morgentaler Clinic, which prompted these changes. The *Safe Access to Abortion Services Act, 2017* is based largely on BC's law, but has additional features, such as: eight private clinics have automatic 50m zones provided (with 150m upon request), while other facilities that provide abortion services (such as hospitals) can apply for 150m zones. Besides doctors and clinic staff, other regulated professionals (nurse-practitioners, pharmacists, midwives) can apply for zones of up to 150m from their offices.

Alberta

After complaints by clinics that protests and disruptions had increased in recent years, the government passed Bill 9 in May 2018⁶ (the *Protecting Choice for Women Accessing Health Care Act*). Similar to BC's law, it creates a minimum 50m no-protest zone around clinics and makes it illegal for anyone to harass a doctor by phone, mail or online. Zones can be increased to 150m if needed, and doctors and other service providers can also apply for a zone around their offices and homes. The law also includes a maximum \$10,000 fine for repeat offenders.

⁵ <http://www.arcc-cdac.ca/presentations/Bubble-Zones-Court-Injunctions-in-Canada.pdf>

⁶ <http://www.cbc.ca/news/canada/edmonton/alberta-abortion-safe-zones-1.4684773>

Court Injunctions

The Morgentaler Clinic in Toronto has a private injunction with a 500-foot zone (150m). 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 private clinics.

The Chaleur Regional Hospital, Bathurst, NB was granted a permanent injunction against protesters in May 2017. The injunction bans protesters from demonstrating anywhere on the hospital grounds.

Safe Access Zones and Free Speech

The ability to protest is an important part of the democratic process, but that does not mean that one can harass, insult, and threaten someone obtaining or providing a legal procedure. Safe access zones are a response to violence and the wishes of a small number of people who wish to limit human rights and freedoms.

Freedom of speech in Canada is not absolute – Section 1 of the *Canadian Charter of Rights and Freedoms* allows the government to pass laws that limit free expression so long as the limits are reasonable and justified. When protesters frighten and harass patients and medical professionals outside facilities that provide abortion, that constitutes a very reasonable and justifiable reason to use Section 1. Protestors are free to protest anywhere else.