

2015

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Shane Rattenbury)

Health (Patient Privacy) Amendment Bill 2015

A Bill for

An Act to amend the *Health Act 1993*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Health (Patient Privacy) Amendment Act 2015*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

5 *Note* The naming and commencement provisions automatically commence on
6 the notification day (see [Legislation Act](#), s 75 (1)).

7 **3 Legislation amended**

8 This Act amends the *Health Act 1993*.

9 **4 New division 6.1 heading**

10 *insert*

11 **Division 6.1 Abortions—generally**

12 **5 New division 6.2**

13 *insert*

14 **Division 6.2 Patient privacy in protected areas**

15 **85 Definitions—div 6.2**

16 (1) In this division:

17 *approved medical facility* means a medical facility approved under
18 section 83.

19 *capture visual data*—a person *captures visual data* of another
20 person if the person captures moving or still images of the other
21 person by a camera or any other means in such a way that—

22 (a) a recording is made of the images; or

23 (b) the images are capable of being transmitted in real time with or
24 without retention or storage in a physical or electronic form; or

- 1 (c) the images are otherwise capable of being distributed.
- 2 ***prohibited behaviour***, in a protected area around an approved
3 medical facility, means any of the following:
- 4 (a) the harassment, hindering, intimidation, interference with,
5 threatening or obstruction of a person, including by the
6 capturing of visual data of the person, in the protected period
7 that is intended to stop the person from—
- 8 (i) entering the approved medical facility; or
- 9 (ii) having or providing an abortion in the approved medical
10 facility;
- 11 (b) an act that—
- 12 (i) can be seen or heard by anyone in the protected period;
13 and
- 14 (ii) is intended to stop a person from—
- 15 (A) entering the approved medical facility; or
- 16 (B) having or providing an abortion in the approved
17 medical facility;
- 18 (c) a protest, by any means, in the protected period in relation to
19 the provision of abortions in the approved medical facility.
- 20 ***protected area*** means an area declared under section 86.
- 21 (2) For this section, ***protected period***, in relation to an approved medical
22 facility, means the period between 7 am and 6 pm on each day the
23 facility is open or any other period declared by the Minister.
- 24 (3) A declaration is a disallowable instrument.
- 25 *Note* A disallowable instrument must be notified, and presented to the
26 Legislative Assembly, under the [Legislation Act](#).

1 **86 Declaration of protected area**

- 2 (1) The Minister must declare an area around an approved medical
3 facility to be a protected area.
- 4 (2) In making the declaration, the Minister must be satisfied that the
5 area declared is—
- 6 (a) sufficient to ensure the privacy and unimpeded access for
7 anyone entering, trying to enter or leaving an approved medical
8 facility; but
- 9 (b) no bigger than necessary to ensure that outcome.
- 10 (3) A declaration is a disallowable instrument.

11 *Note* A disallowable instrument must be notified, and presented to the
12 Legislative Assembly, under the [Legislation Act](#).

13 **87 Prohibited behaviour in or in relation to protected area**

- 14 (1) A person commits an offence if the person—
- 15 (a) is in a protected area; and
- 16 (b) engages in prohibited behaviour.
- 17 Maximum penalty: 25 penalty units.
- 18 (2) A person commits an offence if—
- 19 (a) the person publishes captured visual data of a person (the
20 *recorded person*) entering or leaving, or trying to enter or
21 leave, an approved medical facility; and
- 22 (b) the person does so with the intention of stopping a person from
23 having or providing an abortion; and
- 24 (c) the recorded person did not consent to the publication.
- 25 Maximum penalty: 50 penalty units, imprisonment for 6 months or
26 both.

- 1 (3) In this section:
2 *publish*, captured visual data—
3 (a) means communicate or distribute visual data in a way or to an
4 extent that makes it available to, or likely to come to the notice
5 of, the public or a section of the public or anyone else not
6 lawfully entitled to the visual data; and
7 (b) includes—
8 (i) entering into an agreement or arrangement to do a thing
9 mentioned in paragraph (a); and
10 (ii) attempting to do a thing mentioned in paragraph (a) or
11 subparagraph (i).

12 **6 Dictionary, new definitions**

- 13 *insert*
14 *approved medical facility*, for division 6.2 (Patient privacy in
15 protected areas)—see section 85.
16 *capture visual data*, for division 6.2 (Patient privacy in protected
17 areas)—see section 85.
18 *prohibited behaviour*, for division 6.2 (Patient privacy in protected
19 areas)—see section 85.
20 *protected area*, for division 6.2 (Patient privacy in protected
21 areas)—see section 85.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 17 September 2015.

2 Notification

Notified under the [Legislation Act](#) on 2015.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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