

# ARE “SAFE ACCESS ZONES” NECESSARY OR PROPORTIONATE?

*A briefing on the Abortion Services (Safe Access Zones) (Scotland) Bill*

**APRIL 2024**

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On 15 June 2023, Green MSP Gillian Mackay lodged the Abortion Services (Safe Access Zones) (Scotland) Bill after an extensive period of consultation. Following scrutiny by the Health, Social Care and Sport Committee, the Bill is expected to be debated at Stage 1 on Tuesday 30 April 2024.

This Bill would criminalise the activities of pro-life vigils, and any individual who is seen to be “influencing” the decision of a woman attending a hospital or clinic for abortion, even if the person was only praying silently. Those in breach could be fined thousands of pounds.

This briefing scrutinises the Bill and explores whether “Safe Access Zones” are a necessary or proportionate legislative step.

## **IS “INFLUENCING” A CRIME?**

Regarding the offence of “influencing”, the Bill reads:

*A person who is in a safe access zone for protected premises commits an offence if the person does an act with the intention of, or is reckless as to whether the act has the effect of –*

- a. influencing the decision of another person to access, provide or facilitate the provision of abortion services at the protected premises,*

Peacefully trying to persuade others of a point of view is at the heart of the concept of freedom of speech. It is also wrong to define influencing as being inherently bad or coercive. A woman having an abortion because she is in a difficult financial situation may well be “influenced” to keep the baby if she is offered practical support. Denying her the opportunity to receive that offer of help is taking a choice away from her.

The Bill also reads:

*A person who is in a relevant area relating to protected premises commits an offence if the person*

- a. does an act that is capable of being seen or heard by another person who is within the safe access zone for the protected premises, and*
- b. does so with the intention of, or is reckless as to whether the act has the effect of –*
  - i. influencing the decision of another person to access, provide or facilitate the provision of abortion services at the protected premises,*

From the explanatory notes:

*“For example, if a person who lives in a building in the area within the boundary of the safe access zone displays an antiabortion sign in the window of their building with the intention of influencing another person’s decision to access abortion services at the nearby protected premises and leaves that sign on display, an offence could be committed if an affected person sees or could have seen the sign at any time.”*

This means that an offence could also be committed by a person outside the safe access zone, if the action they are taking is visible from within the zone – even if it is within their own private property. A person could be fined for having a pro-life sign in the window of their home or having a pro-life bumper sticker on their car.

### **A RIGHT TO PROTEST AND PEACEFULLY WITNESS**

This Bill has serious implications for human rights, protected in international law. Citizens will be targeted, not because of anything they have done, but based on their political opinions and religious beliefs. The Bill will have a disproportionate impact on members of religious minorities (in particular, Roman Catholics). The ECHR protects:

- Freedom of thought, conscience, and religion (Article 9)
- Freedom of Expression (Article 10)
- Freedom of Assembly and Association (Article 11)

It is generally accepted that peaceful vigils and protests are an important part of a functioning democracy. Take, for example, the peace vigils at Faslane, which have been ongoing for decades. These take place at the site of contention – the base itself. The same should apply to pro-life vigils taking place at the locations where abortions are performed.

### **IS PRAYER AN OFFENCE?**

The Policy Memorandum for the SAZ Bill states that prayer is an activity likely to be prohibited by the Bill.<sup>1</sup> This has serious and alarming implications for fundamental human rights. It is stated in the Stage 1 Report that, “Some Members consider that there should be an explicit exemption from the provisions in the Bill for silent prayer, in order to avoid any criminalisation of private thoughts.”<sup>2</sup>

Pro-life people have the right to bear witness peacefully in public, and women have the right to receive the information and support they offer.

Freedom of Thought is an absolute right, enshrined in the Universal Declaration of Human Rights, Article 18. Freedom of Thought is not to be balanced against any other right. Under this legislation, the police could approach a Scottish citizen and ask them what they are thinking or praying about, under the shadow of criminal prosecution – as has already happened in England.

### **CASE STUDY: ISABEL VAUGHAN-SPRUCE**

In December 2022, Isabel Vaughan-Spruce was standing silently near an abortion clinic in Birmingham, which was covered by a Public Space Protection Order (PSPO). She was not holding anything that would identify her as pro-life. She was approached by three police officers, searched, and arrested. She was acquitted the following February, only to be arrested again 3 weeks later, this time by six police officers. Both incidents were caught on camera.

## **ARE “SAFE ACCESS ZONES” NECESSARY OR PROPORTIONATE?**

There has never been an arrest relating to pro-life vigils. Police Scotland have confirmed, both in written evidence and evidence presented to the Health, Social Care and Sport Committee, that existing legislation is sufficient in the event of intimidation and harassment – but no behavior of pro-life vigils has ever met the threshold.<sup>3</sup>

The Police Scotland consultation response reads:

“The Bill has been reviewed and PSoS’s position remains that existing powers and offences (whether statutory or common law) are sufficient to address any unlawful behaviour which may arise in the vicinity of a health care premises as a result of such protest.

“Our engagement with participants of such protests to date has largely involved providing advice where appropriate and facilitating peaceful protest and has not resulted in any criminality being identified.”<sup>4</sup>

Women are not being prevented from attending appointments due to pro-life vigils. In fact, abortion figures in Scotland rose by 19% in 2022, the most significant increase since abortion became legal.<sup>5</sup>

There is no public support for this Bill. The 2022 consultation on the proposed bill received nearly 6,000 responses, the majority of which opposed the Bill. 4,517 (77.13%) respondents disagreed with the statement, “Do you agree with the overall purpose of this Bill?”. Only 21.99% of respondents agreed, while 0.68% partially agreed.

## **WHAT ABOUT WOMEN CONSIDERING ABORTION?**

Pro-life vigils aim to reach women who may not want an abortion, but feel it is their only option. These women may feel this way because of a lack of resources, lack of support, or they may even be facing coercion. A poll commissioned by the BBC in 2022 found that 15% of British women (aged 18-44) had faced pressure to have an abortion that they did not want.<sup>6</sup> Pro-life vigils signal to these women that there is an alternative – and can direct them to the help they need.

On 12 March 2024, the Health, Social Care and Sport committee heard evidence from Alina Dulgheriu, who encountered a pro-life vigil when attending a clinic for abortion, and ultimately decided not to go through with her abortion. She said:

“Had I not received that support from volunteers, my beautiful daughter would not be here today. I weighed up the two options I had before me, and I chose motherhood. I chose to accept help. It wasn’t easy, but with the support of the group who had given me that leaflet, I couldn’t be prouder of the life my daughter and I have charted out together.”<sup>7</sup>

In a closed session, the committee also heard evidence from women who have had abortions and now participate in pro-life vigils. Therefore, they will be aware that not all women who have had or are considering abortion are opposed to pro-life vigils. In fact, some see it as a lifeline.

To hear from another woman who has had an abortion and participates in pro-life vigils, please watch:  
<https://youtu.be/hZ1IwxRFQxE?si=fdtLOYztmt4WtED2>

## CONCLUSION

The Abortion Services (Safe Access Zones) (Scotland Bill) has concerning implications for fundamental freedoms, and there is little evidence to suggest such a move is necessary or proportionate. In a free society, people should be able to express the view that abortion ends human life and hurts women.

“Safe Access Zones” are illiberal, discriminatory, and cruel. Pro-life people must have the right to bear witness peacefully in public, and women must have the right to receive the information and support they offer.

**If you need any more information, please contact Margaret Akers, SPUC's Services Coordinator, at [margaretakers@spuc.org.uk](mailto:margaretakers@spuc.org.uk), or 0207 820 3121.**

## ENDNOTES

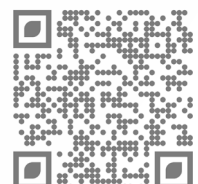
1. Policy Memorandum accessible ([parliament.scot](http://parliament.scot))
2. <https://bprcdn.parliament.scot/published/HSCS/2024/4/22/73825841-ef4e-4dea-9f76-667bd74dc69a/HSCSS062024R06.pdf>
3. Health, Social Care and Sport Committee | Scottish Parliament TV
4. Response 841863251 to Abortion Services (Safe Access Zones) (Scotland) Bill (Detailed) - Scottish Parliament - Citizen Space
5. Termination of pregnancy statistics - Year ending December 2022 - Termination of pregnancy statistics - Publications - Public Health Scotland
6. <https://comresglobal.com/polls/reproductive-coercion-poll-bbc-radio-4-8-march-2022/>
7. Health, Social Care and Sport Committee | Scottish Parliament TV



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