

**SUBMISSION FROM THE REPUBLIC OF IRELAND PANEL OF THE  
PRESBYTERIAN CHURCH IN IRELAND'S COUNCIL FOR PUBLIC  
AFFAIRS ON THE HEALTH (TERMINATION OF PREGNANCY  
SERVICES (SAFE ACCESS ZONES)) BILL 2022 – GENERAL SCHEME  
OF BILL**

**NOVEMBER 2022**

**Introduction**

1. The Presbyterian Church in Ireland (PCI) has over 530 congregations across the island of Ireland, with almost a fifth of those in the Republic of Ireland. The Council for Public Affairs is authorised by the General Assembly to speak on behalf of PCI on matters of public policy, and the Republic of Ireland Panel is delegated to do this for matters in that jurisdiction.
2. PCI is grateful for the opportunity to draw the Minister's attention to certain concerns regarding the *Health (Termination of Pregnancy Services (Safe Access Zones)) Bill 2022 – General Scheme of Bill*, and recognises that the draft legislation is not about opening up another debate about the nature and provision of abortion services in Ireland.
3. PCI also acknowledges that the matters under consideration through this legislation are not only sensitive but cut across the lives and personal experiences of women and their families who have experienced a crisis pregnancy situation in the past, or who may do so in the future. This is not simply a theological or academic exercise for the church as many of our members and their families have experienced a pregnancy crisis and tackled difficult decisions, with the support of our ministers and church communities. As a denomination we continue to actively consider how we can better support women and their families who face such challenges.
4. We think it is important that women should be protected from harassment. We do not object to the intention of this law. But we are concerned the law as proposed and framed is unnecessary, impractical, and likely to be counter-productive, undermining public order and curtailing the freedoms of expression and religion that are necessary for a constitutional republic.

## General Comments

5. Before commenting on specific aspects of the draft legislation PCI makes the following observations on the difficulties experienced in other jurisdictions with regard to passing similar legislation.
6. First, the Abortion Services (Safe Access Zones) Bill passed by the Northern Ireland Assembly, shortly before the May 2022 election, has been referred to the UK Supreme Court by the Attorney General for Northern Ireland, on the basis that clause 5(2)(a) of the Bill<sup>1</sup> disproportionately interferes with Articles 9, 10 and 11 of the European Convention on Human Rights<sup>2</sup>. A decision of the Supreme Court on the matter has not been delivered.
7. Secondly, just last month at Westminster, Labour MP Stella Creasey tabled an amendment to the UK Government's Public Order Bill, which introduced an 'offence of interference with access to or provision of abortion services'<sup>3</sup>. Following a free vote with cross-party support the amendment was inserted into the Bill. However, less than a week later, on Monday 24<sup>th</sup> October the Minister for Crime, Policing and Fire, Jeremy Quinn MP, tabled a written statement which included the following:

*"Section 19(1) of the Human Rights Act provides a mechanism to notify Parliamentarians if a statement cannot be made that a clause is compatible with the ECHR, but this does not fetter the right of Parliament to legislate in such a way, should it wish.*

*I am unable, but only because of clause 9, to make a statement that, in my view, the provisions of the Bill are presently compatible with Convention rights but the Government nevertheless wish to proceed with the Bill."*<sup>4</sup>

8. The Bill was debated in the House of Lords on Tuesday, 1 November 2022, and Baroness Fox of Buckley, a long-standing pro-choice campaigner made the following comments:

*"Finally, no matter how much we despise protesters, we must have consistency in lawmaking. So why have so many on the Opposition Benches been celebrating the Government's acceptance of amendments banning protests around abortion clinics? As a long-standing pro-choice campaigner, I believe that it is totally vital that women are able to safely access reproductive healthcare services. If they are being obstructed or harassed, we have public order laws to deal with this, and we should deal with them harshly. However, as we have already heard, Clause 9 criminalises and bans seeking to influence, advising or persuading, attempting to advise or persuade, or otherwise expressing an opinion.*

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<sup>1</sup> [Abortion Services \(Safe Access Zones\) Bill](#)

<sup>2</sup> [REFERENCE by the Attorney General for Northern Ireland - Abortion Services \(Safe Access Zones\) \(Northern Ireland\) Bill - The Supreme Court](#)

<sup>3</sup> [Public Order Bill \(parliament.uk\)](#)

<sup>4</sup> [Public Order Bill: Clause 9 and ECHR - Hansard - UK Parliament](#)

*Many of us may feel little sympathy with people who are viewed as anti-abortion cranks. However, as Big Brother Watch notes, this sets a precedent that will inevitably lead to attempts to prevent speech, expression, information sharing and assembly in relation to other controversial and unpopular causes. It is also worth noting that at least five councils with PSPO buffer zones around abortion clinics have banned silent prayers. This institutes a law of genuine thought crime and betrays any commitment to religious freedom, and we should totally oppose it.”<sup>5</sup>*

9. Such background is helpful in underlining that PCI’s opposition to this legislation does not stem from a desire to see women in difficult circumstances intimidated as they seek to access specific support. Indeed, we deplore any situation where a woman seeking a termination, or medical staff involved in the provision of abortion services, are harassed or subjected to behaviour which would compound their distress. There should, however, be freedom to protest, and freedom to share opinions in a reasonable, lawful, and peaceful manner. This in itself is not harassment. While women should have a clear path to access services others should be able to exercise their fundamental right to a reasonable expression of opinion.

#### **Comments on the General Scheme of Bill**

10. Head 3 provides for the designation of a safe access zone around a healthcare premises. Encompassing as it does any healthcare premises, not simply those which provide services relating to abortion, along with the 100m extent of the zone, makes this a very general provision which may have unintended consequences.
11. The exception provided for in Head 5 for places of worship means that the Bill does not “prohibit conduct which would otherwise be lawful, which occurs within a place of worship”. The explanatory note goes on to indicate that this applies only to indoor environments and not the exterior grounds of a place of worship. While many Christians gather regularly (often weekly) in venues, which may include schools or community centres as well as purpose-built chapels or churches, for corporate worship, many do not make a distinction between which activities or parts of their lives are designated as ‘worship’ and those which are not. The approach suggested by this legislation may have the unintended consequence of constraining freedom of religion by limiting worship to designated locations.
12. One of the activities prohibited by the draft legislation is “displaying or distributing, or attempting to distribute, any text, or images intended to, or which could reasonably be considered likely to, influence a person’s decision to access termination of pregnancy services”. By this definition it would not be possible for a local church to publicly advertise on a noticeboard on the exterior grounds of a place of worship any material which might promote a pro-life counselling programme, pastoral support for pregnant women who are potentially struggling, or other associated material. These are not hypothetical concerns. Crisis pregnancy does not always lead to termination and the longstanding reasonable, pro-social counselling services offered by churches for women who have decided to continue with pregnancy through

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<sup>5</sup> <https://hansard.parliament.uk/lords/2022-11-01/debates/8DA53248-F268-4906-8902-6417C0A06E08/PublicOrderBill#contribution-EBCBEFFE-0F98-419C-BD09-B4D295374B89>

complex difficulties should not be constrained by the legitimate concern to also protect the freedom of women who elect for whatever reason to pursue a termination.

13. Some questions that we think it would be useful to consider include:
  - a. Could this legislation prevent a place of worship from publicly displaying biblical texts on its exterior grounds which refer specifically to life before birth?
  - b. Does this impinge on Article 9 rights, considering the necessity of the law can be disputed?
  - c. Does it contravene Article 10 rights since it offers no accounting for the duties and responsibilities of free expression, ruling them out entirely?
  - d. How does it stand in the light of 44.2.1 of Bunreacht ne hÉireann considering the existing public order legislation?
  
14. There are many contexts in which a religious organisation might want to promote their teaching which could be construed as contributing to debates about abortion law, but which are actually intended for another purpose. To cite an obvious example, in Psalm 139:14, the poet sings “I praise you because I am fearfully and wonderfully made; your works are wonderful, I know that full well.” This is a verse that might fall under suspicion in the bill as currently established, but it is also a verse that would serve as a cornerstone for ministry to any group of people who struggle with self-image issues, ranging from teenagers to those suffering from addictions.
  
15. Head 4 lists 14 specific types of activity which will be prohibited including displays of different types of material, offering or attempting to offer counselling, or trying to communicate in a way which would dissuade a person from accessing services. The risk is that the Bill will not merely propose to inhibit harassment and intimidation and the wrongful actions of third parties interfering with a right to access abortion services, but may have the effect of restricting any conduct, no matter how benign, within a safe access zone on the grounds that it would amount to a criminal offence. A friend or relative who wishes to encourage a person seeking termination of pregnancy to reconsider their decision may fall foul of this legislation should such a conversation take place within the designated 100m zone area.
  
16. As proposed, the Bill intends to protect those who wish to access termination services to which they are legally entitled to avail. But aside from projected concerns about the way that it may limit legitimate and pro-social expressions of religious belief, there are concrete democratically positive actions that appear to be consequentially affected by the proposal. The March for Life in Dublin is one of the largest public demonstrations in the nation each year. Given that the current designated route for public demonstrations within Dublin city passes by two maternity hospitals, might this proposed legislation effectively render this march illegal? This event allows thousands of citizens to express their deeply-held ethical and political convictions in peaceful protest. An objection based on ECHR Article 11 seems likely here. If such expression is curtailed in this instance, why might it not be curtailed in other instances as political will and the cultural climate shifts? No bill can be considered progressive or enlightened if, in the hands of a more authoritarian government, it could serve as precedent for the further dilution of civil liberties.

This is the very point which Baroness Fox of Buckley made during the House of Lords debate on similar provisions on 1<sup>st</sup> November 2022.

17. Any law that interferes with the right to free expression must be demonstrably necessary, and proportionate. Yet An Garda Síochána have stated that existing public order laws offer sufficient remedies in the case of harassment or intimidation<sup>6</sup>. Indeed, the Garda Commissioner stated in a letter to the Minister for Health that “no incidence of criminality has been reported or observed”. The necessity of the bill is thus called into question.
18. If passed, the proposed legislation would disproportionately engage the resources of An Garda Síochána, which are already under significant pressure. One can only imagine the difficulty of policing this law. That, in itself, is not a reason to oppose any legislation, but when combined with the apparent questions about its necessity and its significant issues around proportionality and extendibility, we worry that this bill will in fact diminish the peace of the public square. If this legislation is brought forward it would be useful to also an assessment of the potential impact on An Garda Síochána, including the resource implications.
19. As we read this bill, there is no clear distinction between those who are properly, lawfully and in a sensitive and appropriate fashion and those who are engaged in conduct which is undoubtedly offensive. To create a space free of harassment is noble. To create a space free of any political expression is not. Furthermore, as it presently stands, there is no mechanism for appeal. The freedom of conscience lies at the heart of Presbyterian belief and practice. We are grateful to live in a society which is hospitable to voices that are inhospitable to us! What is a constitutional republic if not a place where people are free to express their deepest perspectives on important matters. There is a responsibility on the citizen to speak with care and respect for those with whom they disagree (a principle explicitly articulated in our Scriptures – we must be prepared to give an answer to everyone who asks about the reason for the hope we have but we must do so “with gentleness and respect” (1 Peter 3:15)), but there are laws in place that allow the authorities to deal with anti-social and harassing behaviour. Protecting the rights to access termination services can be achieved without diminishing the rights to free expression.

### Conclusion

20. The Presbyterian Church in Ireland is committed to a pro-life for the whole-of-life position. We opposed the initial 8<sup>th</sup> Amendment because in a large part we felt that it was an example of legislative over-reach in response to a passing cultural moment<sup>7</sup>. Regardless of our positions on the larger fundamental questions raised by this topic, our concern here is primarily addressed to the form of the proposal. We feel it is informed by a sincere desire to help women and their families in crisis which arrives at a misguided and unwise proposal. That the bill relates to

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<sup>6</sup> Jennifer Bray, “Existing Laws Adequate to Deal with Abortion Protests, Says Garda Commissioner,” *The Irish Times*, September 26, 2019, <https://www.irishtimes.com/news/health/existing-laws-adequate-to-deal-with-abortion-protests-says-garda-commissioner-1.4031727>.

<sup>7</sup> Jennifer Wade, “1982: Irish Council of Churches Opposed Anti-Abortion Amendment,” *TheJournal.ie*, December 28, 2012, <https://www.thejournal.ie/1982-irish-council-of-churches-opposed-anti-abortion-amendment-709821-Dec2012/>.

questions of the right to life is distinctly secondary to how it relates to the right of freedom of expression.

21. There is no formal ministry of the Presbyterian Church in Ireland or its congregations in the Republic of Ireland that gather outside the sites addressed in this bill and we are even not aware of any informal ministry that might be affected. We are not seeking space to protect our practices as Presbyterians. Rather, as Christians, we are motivated to protect others' freedom of expression.
22. This bill appears to create a precedent for the limitation of speech in public, which is the heart-beat of any constitutional republic. Its necessity is questionable. Its proportionality doubly-so. It offers no measure for appeal. If implemented, it will take up considerable policing resources at a significant cost to An Garda Síochána's social capital. It is likely to be robustly challenged on a range of grounds in a number of venues. If it survives those cases, it will serve as an even stronger precedent for further dilution of the citizen's right to state unpopular opinions in public if and when Ireland is governed by less moderate leaders.
23. We urge the Minister and the Committee to reconsider this legislation, and it is our recommendation that it is withdrawn completely.