

LEGISLATIVE DIGEST

[Police Code - Access to Reproductive Health Care Facilities]

Ordinance amending the Police Code, Article 43, Sections 4301, 4302, 4303, and 4304, to replace the existing eight-foot bubble zone around individuals entering, exiting, and seeking services at health care facilities with a fixed buffer zone around the entrances, exits, and driveways of reproductive health care facilities; and to prohibit any person from entering or remaining in that buffer zone, with certain exceptions; and making environmental findings.

Existing Law

Police Code Article 43 prohibits a person, within 100 feet of an exterior wall of a health care facility, from harassing or attempting to harass an individual entering, exiting, or seeking services at a health care facility. Harassment is defined as “knowingly approach[ing] another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person.” Section 4303(b). This type of law, which creates a protective zone around an individual that moves with that individual, is often known as a “bubble zone” law.

Amendments to Current Law

The proposed ordinance would replace the existing bubble zone ordinance and instead set a fixed protective zone around a reproductive health care facility. This type of law is often known as a “buffer zone” law. The proposed ordinance would establish a buffer zone around reproductive health care facilities within the City and County of San Francisco, encompassed by both of the following: (1) the area on a public way or sidewalk encompassed by a radius of 25 feet from any portion of an entrance, exit, or driveway of a reproductive health care facility; and (2) the area encompassed by extending the outside boundaries of any entrance, exit, or driveway of a reproductive health care facility in straight lines to the point where those lines intersect the sideline of the street or the property line of the health care facility. The proposed ordinance would narrow the application of Article 43, which currently applies at health care facilities, so it applies only at reproductive health care facilities. In addition, the proposed ordinance would exclude licensed hospitals and facilities owned or operated by licensed hospitals from the definition of a reproductive health care facility.

The proposed ordinance would prohibit anyone from entering or remaining in the buffer zone during the posted business hours of the reproductive health care facility, with four exceptions: (1) Individuals entering or exiting the reproductive health care facility; (2) Employees, agents, or volunteers of the reproductive health care facility, acting within the scope of their

employment, agency or volunteer service; (3) Law enforcement, emergency medical, firefighting, construction, and utilities personnel and federal, state, and municipal employees, when acting within the scope of their employment; and (4) Individuals passing temporarily through the buffer zone to reach a destination within or on the other side of the buffer zone. The prohibition would apply only if the buffer zone was marked and a notice posted. Under the proposed ordinance, the Department of Public Works would mark the zone and prepare the sign used to provide notice.

Background Information

Several cities and states have adopted buffer zone laws. The City of Santa Barbara has a buffer zone preventing demonstrative activities within eight feet of health care facilities and places of worship. The State of Massachusetts has a buffer zone preventing demonstrative activities within thirty-five feet of reproductive health care facilities, and the City of Pittsburgh has a buffer zone barring people from congregating, patrolling, picketing or demonstrating within fifteen feet of the entrance of a health care facility. The proposed ordinance is modeled on those laws, which have been upheld by the courts.