

Access to the Voluntary Termination of Pregnancy Law No. 27,610¹

Dispositions

The Senate and the Chamber of Deputies of the Argentine Republic, gathered in the Congress, hereby enact as law:

ARTICLE 1. PURPOSE. The purpose of this law is to regulate the access to the voluntary termination of pregnancy and post-abortion care, in compliance with the commitments undertaken by the Argentine Government regarding public health and human rights for women and people with other gender identities able to become pregnant, in order to help reduce preventable morbidity and mortality.

ARTICLE 2. RIGHTS. Women and people with other gender identities able to become pregnant have the following rights:

- a. to decide on the termination of their pregnancy as set forth herein;
- b. to request and to gain access to health care for the termination of their pregnancy at the centers of the health care system, as set forth herein;
- c. to request and to receive post-abortion care at the centers of the health care system, irrespective of the fact that the decision to proceed with the abortion was contrary to the legally authorized cases in accordance with this law;
- d. to prevent unintentional pregnancy by way of access to information, comprehensive sexuality education and effective contraceptive methods.

ARTICLE 3. CONSTITUTIONAL LEGAL FRAMEWORK. The provisions of this law are framed within Article 75(22) of the NATIONAL CONSTITUTION, the human rights treaties ratified by the ARGENTINE REPUBLIC, including the Universal Declaration on Human Rights, the American Convention on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the International Treaty on Socio-Economic and Cultural Rights, the International Treaty on Civil and Political Rights, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), the Convention on the Rights of Persons with Disabilities, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in light of the protection of sexual and reproductive rights, dignity, life, autonomy, health, education, integrity, bodily diversity, gender identity, ethnic and cultural diversity, privacy, freedom of belief and thought, information, enjoyment of the benefits of scientific progress, real equality of opportunities, non-discrimination and a life free from violence granted by these instruments.

ARTICLE 4. VOLUNTARY TERMINATION OF PREGNANCY. Women and people with other gender identities able to become pregnant have the right to decide on and to gain access to the termination

¹ This translation was made by [Tradoctas](http://www.redaas.org.ar/recurso.php?r=520) for REDAAS. The original version in Spanish can be found in: <http://www.redaas.org.ar/recurso.php?r=520>

of their pregnancy up to and including the FOURTEENTH (14th) week of pregnancy.

The pregnant person has the right to decide on and to gain access to the termination of their pregnancy outside the term set forth above only in the following cases:

- a. In the event that the pregnancy occurred as a result of rape, the pregnancy may be terminated at the request of the pregnant person, who must submit the pertinent affidavit to the intervening health care workers.

In the case of girls under THIRTEEN (13) years of age, the abovementioned affidavit shall not be required.

- b. In the event that the life or the comprehensive health of the pregnant person were at risk.

ARTICLE 5. HEALTH CARE RIGHTS. Any pregnant person has the right to gain access to the termination of their pregnancy at the centers of the health care system or with health care assistance, within a maximum term of TEN (10) calendar days from their request, in the conditions set forth herein and in Laws No. 26,485, No. 26,529, and related provisions.

Health care workers must guarantee the following minimum conditions and rights in abortion and post-abortion care:

- a. Fair treatment. Health care workers must treat all pregnant people fairly and respect their personal and moral beliefs in order to eliminate practices which perpetuate the use of violence against women and people with other gender identities able to become pregnant.
- b. Privacy. All health care practices aimed at obtaining and disclosing information and clinical documents of the patient must ensure the creation and preservation of a trust environment between health care workers and people requesting health care. Health care workers must also respect the intimacy, human dignity and free will of the people requesting health care, and they shall preserve confidentiality as well. The express authorization of the patient shall be required for information to be disclosed or for the patient's family or companion to be included, as per Article 8 of this law.

Moreover, the patient must be protected from illegal participation of third parties.

In the event of rape to girls or adolescents, the duty to report the violation of rights provided for in Article 30 of Law No. 26,061 and the duty to lodge the criminal complaint set forth in Article 24, paragraph e), of Law No. 26,485, within the framework of provisions of Article 72 of the Criminal Code, must be carried out considering the right to privacy and confidentiality of girls and adolescents, their evolving capacities and best interests, as per the Convention on the Rights of the Child, Law No. 26,061 and Article 26 of the Civil and Commercial Code; likewise, the access to the rights enshrined herein shall neither be hindered nor delayed;

- c. Confidentiality. Health care workers must ensure confidentiality and medical secrecy during and after the provision of health care services. At the visit, they are required to inform that confidentiality is guaranteed and that it is part of the medical secrecy.

The patient is entitled to have all their information protected under the duty of

confidentiality. Any person participating in the elaboration or processing of clinical documents, or having access to its contents, must abide by this duty unless they have the patient's express written authorization to disclose this information.

- d. Free will. Health care workers must respect patients' decisions regarding the exercise of their reproductive rights, treatment options and their future sexual and reproductive health. The decisions taken by the patient shall not be subject to health care workers' judgment based on their personal, religious or axiological beliefs. The autonomous, free will of the patient must prevail.
- e. Access to information. Health care workers must provide respectful and active listening towards patients for patients to freely express their needs and preferences. Patients have the right to receive information on their health. The right to gain access to information includes the right not to receive inadequate information with regard to the information requested.

Information on the different methods of termination of pregnancy, their scope and the consequences of the abortion must be provided. This information must be updated, clear, true and given in accessible language and format.

Health care workers and public authorities are obliged to provide available information on the rights protected by this law in a dynamic fashion and throughout the whole provision of health care, even in the absence of an explicit request.

- f. Quality. Health care workers must respect and ensure the treatment of abortion as per the scope and definition of the World Health Organization. Health care must be provided following standards of quality, accessibility, technical qualification, available options and updated scientific data.

ARTICLE 6. INFORMATION AND TREATMENT OF ABORTION AND SEXUAL AND REPRODUCTIVE HEALTH. Within the framework of the National Program for Sexual Health and Responsible Parenthood, Law No. 25,673, once the voluntary termination of pregnancy has been requested as per Article 4, the health care center must make the following available to any pregnant person at their request:

- a. Information on the procedure to be performed and necessary post-abortion care, following the criteria of the previous Article.
- b. Comprehensive health care throughout the whole process.
- c. Assistance in health care and adequate and accessible information regarding the needs of each person, of a scientific nature and updated on the different contraceptive methods available, as well as the provision of the contraceptive methods provided for in the Compulsory Health Scheme and in Law No. 25,673 or in any amending or superseding rules.

These services are not mandatory for the patient, nor are they a condition for the practice to be performed.

ARTICLE 7. INFORMED CONSENT. Before carrying out the voluntary termination of pregnancy, the written informed consent of the patient is required, as per Law No. 26,529 and related provisions, as

well as Article 59 of the ARGENTINE CIVIL AND COMMERCIAL CODE. Nobody can be replaced in the personal exercise of this right.

ARTICLE 8. CHILDREN. As set forth in the Convention on the Rights of the Child, Law No. 26,061, Article 7 of Annex I of Executive Decree No. 415/06, Article 26 of the ARGENTINE CIVIL AND COMMERCIAL CODE and Resolution No. 65/15 of the Argentine National MINISTRY OF HEALTH, the request for the voluntary termination of pregnancy must be made as follows:

- a. People over SIXTEEN (16) years of age have full capacity to give their consent on their own to exercise the rights granted by this law.
- b. People under sixteen (16) years of age shall submit an informed consent under the provisions of the previous Article and the proceedings in this case shall abide by Article 26 of the Argentine Civil and Commercial Code and Resolution 65/15 of the Argentine Ministry of Health, in accordance with the Convention on the Rights of the Child, Law No. 26,061, Article 7 of Annex I of the Regulatory Decree 415/06 and Regulatory Decree 1282/03 of Law No. 25,673.

ARTICLE 9. PEOPLE WITH LIMITED CAPACITY. Any pregnant person with court-ordered limited capacity, provided such limitation is not related to the exercise of the rights granted by this law, shall be able to give their informed consent without restrictions or prior authorization. The pregnant person may also resort to the system of support provided for in Article 43 of the ARGENTINE CIVIL AND COMMERCIAL CODE.

People acting as part of the support system neither represent nor replace the person with disability in the exercise of their rights; therefore, the support system must include adequate safeguards to avoid excesses for decisions to be effectively made by the holder of the right.

If the court order limiting capacity prevents the person from giving consent for the exercise of the rights provided for herein, or if the person has been declared disabled by a court of law, they shall give their consent with the assistance of their legal representatives or, if they are absent or missing, with the assistance of a close companion, as set forth by Article 59 of the ARGENTINE CIVIL AND COMMERCIAL CODE.

ARTICLE 10. CONSCIENTIOUS OBJECTION. Health care workers directly intervening in terminations of pregnancies have the right to refuse to perform the procedure on the grounds of conscientious objection. In order for health care workers to exercise the conscientious objection, they shall:

- a. Keep their decision in all spheres, whether public, private or of social security, where they practice their profession.
- b. Refer the patient for care by another professional in good faith, in a timely manner, and without delay.
- c. Comply with their remaining professional duties and legal obligations.

Health care workers shall not be allowed to refuse to perform terminations of pregnancies if the life or the health of a pregnant person is at risk and such person requires immediate and urgent medical care.

Conscientious objection shall not be invoked to refuse to provide post-abortion health care.

Failure to comply with the obligations stated in this Article shall give rise to disciplinary,

administrative, criminal and civil penalties, as the case may be.

ARTICLE 11. CONSCIENTIOUS OBJECTION. OBLIGATIONS OF HEALTH CARE FACILITIES. Private subsector or social security health care facilities which do not have any health care workers available to perform the voluntary interruption of pregnancy due to conscientious objection as per the previous Article, shall anticipate to this situation and provide for referral to another institution which can timely perform the procedure with similar features to those requested by the patient. In all cases, the performance of the procedure must be guaranteed as set forth in this Law. All administrative proceedings and costs related to the referral and relocation of the patient shall be in charge of the institution making the referral. All referral services contemplated in this Article must be invoiced according to the health coverage provided by the institution performing the procedure.

ARTICLE 12. COVERAGE AND QUALITY OF BENEFITS. Health care in the public sector, employment-based health insurance schemes included in Law No. 23,660 and Law No. 23,661, the NATIONAL SOCIAL SERVICES INSTITUTE FOR RETIREES AND PENSIONERS created by virtue of Law No. 19,032, health care entities and agents included in Law No. 26,682 of the prepaid health insurance scheme regulatory framework, entities providing health care under Executive Decree No. 1993/11, employment-based health insurance schemes of the Armed Forces and the security forces, employment-based health insurance schemes of the CONGRESS and the JUDICIARY, those included in Law No. 24,741 of University employment-based health insurance schemes, and all agents and organizations providing health care services to their affiliates or beneficiaries, irrespective of their legal nature, must include comprehensive and free services for the voluntary termination of pregnancies as provided for herein and under all methods as recommended by the World Health Organization. These benefits are hereby included in the National Program to Guarantee Health Care Quality and in the Compulsory Health Scheme with full coverage, as well as benefits for diagnosis, medicine and support therapies.

ARTICLE 13. COMPREHENSIVE SEXUALITY EDUCATION, AND SEXUAL AND REPRODUCTIVE HEALTH. The National Administration, the Provinces, the AUTONOMOUS CITY OF BUENOS AIRES and the Municipalities have the duty to apply Law No. 26,150 for Comprehensive Sexuality Education, providing for active policies for the promotion and strengthening of the sexual and reproductive health of all the population.

These policies shall be framed within the purposes and scope set forth in Laws No. 23,798, 25,673, 26,061, 26,075, 26,130, 26,150, 26,206, 26,485, 26,743 and 27,499, and all other laws already mentioned herein. In addition, teachers and health care workers shall be provided with training in gender perspective and sexual diversity with the purpose of providing adequate care, support and follow-up to those requesting the voluntary termination of their pregnancies as provided for herein. Public officers intervening in said procedures shall be provided with the aforementioned training as well.

ARTICLE 14. AMENDMENTS TO THE CRIMINAL CODE. Article 85 of the ARGENTINE CRIMINAL CODE is hereby amended as follows:

“ARTICLE 85. Whoever causes an abortion shall be punished with:

1. THREE (3) to TEN (10) years imprisonment when performing the procedure without the consent of the pregnant person. This punishment may be raised up to FIFTEEN (15) years if the procedure causes the death of the pregnant person.

2. THREE (3) months to ONE (1) year imprisonment when performing the procedure with the consent of the pregnant person after the FOURTEENTH (14th) week of pregnancy, provided that none of the events set forth in Article 86 take place.”

ARTICLE 15. INCORPORATION OF ARTICLE 85 BIS TO THE CRIMINAL CODE. The following text shall be included as Article 85 bis of the ARGENTINE CRIMINAL CODE:

“ARTICLE 85 bis. Any public officer or authority of a health care center, professional, intervening person or health care worker who unjustifiably delays, hinders or refuses to terminate a pregnancy in legally authorized cases in breach of the legislation in force shall be punished with THREE (3) months to ONE (1) year imprisonment, with special disqualification for twice the time of the conviction.”

ARTICLE 16. REPLACEMENT OF ARTICLE 86 OF THE CRIMINAL CODE. Article 86 of the ARGENTINE CRIMINAL CODE is hereby replaced by the following article:

“ARTICLE 86. Any abortion performed with the consent of the pregnant person up to and including the FOURTEENTH (14th) week of pregnancy shall not be regarded as a crime.

Outside term set forth in the previous paragraph, abortion shall not be punishable when performed with the consent of the pregnant person in the following cases:

1. In the event that the pregnancy occurred as a result of rape. In this case, the practice must be guaranteed at the request of the pregnant person, who must submit the pertinent affidavit to the intervening health care workers.

In the case of girls under THIRTEEN (13) years of age, the abovementioned affidavit shall not be required.

2. In the event that the life or comprehensive health of the pregnant person were at risk.”

ARTICLE 17. REPLACEMENT OF ARTICLE 87 OF THE CRIMINAL CODE. Article 87 of the ARGENTINE CRIMINAL CODE is hereby replaced by the following article:

“ARTICLE 87. Whoever causes an abortion to a pregnant person by the use of violence without the intent of causing it, shall be punished with SIX (6) to THREE (3) years imprisonment if the person causing the abortion knows that the pregnant person is pregnant or pregnancy is evident.”

ARTICLE 18. REPLACEMENT OF ARTICLE 88 OF THE CRIMINAL CODE. Article 88 of the ARGENTINE CRIMINAL CODE is hereby replaced by the following article:

“ARTICLE 88. Any pregnant person who, after the FOURTEENTH (14th) week of pregnancy, causes their own abortion or gives consent for other person to do so, shall be punished with THREE (3) months to ONE (1) year imprisonment, provided that none of the events set forth in Article 86 take place. The conviction shall be able to be exempted when the circumstances render the conduct excusable.

The attempt to cause the abortion by the pregnant person shall not be punishable.”

ARTICLE 19. TRAINING. Health care workers shall be trained in the provisions of this law and of regulatory and supplementary provisions. For this purpose, the National MINISTRY OF HEALTH as well as the Provincial Ministries and the Ministry of Health of the AUTONOMOUS CITY OF BUENOS AIRES shall apply the corresponding training programs.

ARTICLE 20. ENFORCING AUTHORITY. The enforcing authority of this law shall be set forth by the NATIONAL EXECUTIVE POWER.

ARTICLE 21. PUBLIC POLICY. The provisions set forth herein embody rules of public policy and their application is mandatory throughout the territory of the ARGENTINE REPUBLIC.

ARTICLE 22. Be it notified to the NATIONAL EXECUTIVE POWER.

GIVEN AT THE MEETING ROOM OF THE ARGENTINE CONGRESS, IN BUENOS AIRES, ON THIS 30TH DAY OF DECEMBER OF THE YEAR TWO THOUSAND AND TWENTY.

REGISTERED UNDER NUMBER 27,610.