Federal Ministry
for Education, Family Affairs, Senior Citizens,
Women and Youth

Pregnancy Counselling

Information about the
Act on Pregnancies in Conflict Situations

www.bmbfsfj.bund.de

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Introduction

Legal provisions

A pregnancy is not always foreseeable or planned. It may occur at a time that does not fit with the pregnant woman's current life circumstances. It may also be the case that the pregnancy does not progress as expected for medical reasons. As a result, the pregnant woman may face the difficult decision of whether or not to terminate her pregnancy.

However, she does not have to make this decision alone. Firstly, she may be able to discuss many of her questions with her partner or people in her personal circle. Secondly, she may seek independent, non-directive advice from a pregnancy (conflict) counselling centre. This is mandatory in the case of a planned termination for which there are no medical or crime-related grounds.

If the pregnant woman faces particularly difficult life circumstances and/or her own wellbeing is at risk and she therefore wishes to keep her pregnancy secret, she has the option of a confidential birth. This option enables pregnant women, who are unwilling to disclose their pregnancy because of a specific emergency situation, to give birth anonymously and safely with medical support in a hospital or with the assistance of a midwife. During and after pregnancy, the women concerned receive advice and support from around 1,600 pregnancy counselling centres across Germany.

Right to assistance and counselling and the confidential birth option

The Act on Pregnancies in Conflict Situations *(Schwangerschaftskonfliktgesetz – SchKG)* sets out the detailed provisions governing terminations of pregnancy and confidential births. It also establishes a general right to counselling on all matters relating to sex education, contraception, family planning and any other issues connected with pregnancy.

When can a termination of pregnancy be performed without giving rise to criminal liability under German law? What counselling options are available? How and where can a termination be performed, and who covers the costs? What other forms of support are available? This brochure provides information on the most important questions.

What do the legal provisions specifically envisage?

The legal framework

Terminations of pregnancy are permissible under the following conditions:

Counselling provision
Termination of a pregnancy is not punishable if the woman concerned complies with the following requirements of what is known as the "counselling provision" (Counselling provision pursuant to section 218a (1) German Criminal Code *[Strafgesetzbuch – StGB]*):

- The pregnant woman requesting the procedure must receive counselling from a state-recognised pregnancy conflict counselling centre at least **three days**[1] **before** the date of the procedure.
- She must present the doctor who is to perform the procedure with a **counselling certificate** confirming this consultation has taken place.
- In addition, the pregnancy must be terminated within twelve weeks of conception by a doctor who did not take part in the consultation.

1 See calculation example on page 11.

Both the pregnancy conflict counselling and the issuing of the counselling certificate may be done digitally.

When the above requirements are met, none of the persons involved in the termination of pregnancy is punishable.

Grounds
A termination performed by a doctor with the pregnant woman's consent is not punishable:

- Where it is performed on medical grounds, i.e. it is **medically necessary** (section 218a (2) StGB).

  Medical grounds

  A termination is deemed to be medically necessary if, according to medical opinion, the pregnant woman's life is at risk or there is a risk of serious harm to her physical or mental health.

- Where it is carried out for crime-related reasons, i.e. where there are **crime-related grounds** (section 218a (3) StGB).

  Crime-related grounds

  Crime-related grounds for a termination exist where, according to medical opinion, the pregnancy resulted from a sexual offence under sections 176 to 178 StGB, such as rape. In the case of crime-related grounds, the termination of the pregnancy is lawful if it is performed within twelve weeks of conception. Pregnancy conflict counselling is not required.

Criminal liability of other persons

Coercion

Whoever takes part in terminating a pregnancy that is not performed either in accordance with the counselling provision or on medical or crime-related grounds[2], is punishable. This also applies to persons who use force or the threat of serious harm to compel a pregnant woman to terminate their pregnancy (section 240 (4) (1) StGB – especially serious case of coercion).

Doctors' duties

Doctors are punishable if they terminate a pregnancy on neither medical nor crime-related grounds and the requirements of the counselling provision (page 6) have not been met.

To qualify for exemption from punishment, the doctor must fulfil the following duties (section 218c StGB):

Doctors' duties to ensure exemption from punishment

- The doctor must give the pregnant woman an opportunity to explain her reasons for requesting a termination.
- He or she must give the pregnant woman medical advice regarding the significance of the procedure, in particular the steps in the procedure, its after-effects, risks and the possible physical and psychological effects.
- Where a pregnancy is terminated under the counselling provision or on crime-related grounds (section 218a (1) and (3) StGB), the length of the pregnancy must be medically examined and verified. In such cases, a termination may only be performed within twelve weeks of conception.
- Where a pregnancy is terminated under the counselling provision (section 218a (1) StGB), the doctor performing the termination may not, at the same time, undertake the pregnancy conflict counselling required for the counselling certificate (section 219 StGB).

2 See pages 6 and 7.

What does pregnancy conflict counselling entail for terminations under the counselling provision?

Pregnancy conflict counselling

The counselling provision is based on the understanding that, during the early stages of pregnancy, unborn human life can only be protected in co-operation with the woman.

The legal basis for the content and purpose of counselling is set out in section 219 StGB and sections 5 and 6 of the Act on Pregnancies in Conflict Situations (SchKG).

One of the requirements that must be met in order to avoid punishment for terminating a pregnancy is that counselling must be provided by a recognised pregnancy conflict counselling centre (see page 6).

The pregnancy conflict counselling must be guided by efforts to encourage the woman to continue her pregnancy and to show her possible options for a life with the child. It should help her make a responsible and conscientious decision.

The counselling must be non-directive and must proceed on the basis that responsibility lies with the pregnant woman. It should encourage her and promote understanding, rather than instruct or patronise her (section 5 (1) SchKG).

More specifically, pregnancy conflict counselling (section 5 (2) SchKG) entails:

- engaging in conflict counselling during which the pregnant woman is expected to inform the counsellor of her reasons for considering a termination of her pregnancy. However, she cannot be forced to engage in the discussion and cooperate;

- any medical, social and legal information required in the circumstances, an explanation of the legal rights of both mother and child and of the practical assistance options available, in particular support that facilitates the continuation of the pregnancy and eases the situation of mother and child;
- the offer to help the pregnant woman assert her rights, find accommodation, make childcare arrangements and continue her education or training, as well as the offer of follow-up support.

At the pregnant woman's request, information may also be provided on ways of preventing unwanted pregnancies.

Conduct of pregnancy conflict counselling
Pregnancy conflict counselling is intended to support pregnant women in making their own decision – one that is right for their lives and one they will also be able to stand by in the future.

Pregnant women have the following rights:
- the right to counselling without delay (section 6 (1) SchKG);
- the right to retain their anonymity vis-a-vis the counsellor if they so wish (section 6 (2) SchKG);
- the right to involve other professionals (particularly persons with medical, psychological or socio-educational qualifications) as well as people from their personal circle (section 6 (3) SchKG);
- the right to free-of-charge pregnancy conflict counselling (section 6 (4) SchKG).

Once the pregnancy conflict counselling has been completed, the counselling centre must issue the pregnant woman with a certificate bearing her name, the date of the counselling session and confirming that the statutory pregnancy conflict counselling session has taken place (section 7 (1) SchKG).

The counselling centre must not refuse to issue a counselling certificate if continuing the counselling could result in the 12-week time limit under section 218a of the German Criminal Code being exceeded (section 7 (3) SchKG).

Staff in pregnancy counselling centres are bound by the duty of confidentiality set out in section 203 of the German Criminal Code. They have the right to refuse testimony under section 53 of the German Code of Criminal Procedure *(Strafprozessordnung – StPO)*. Section 97 of the StPO prohibits the seizure of documents held by pregnancy counselling centres.

Timing of counselling
Pregnancy conflict counselling must take place at least three days before the termination. When calculating the three-day waiting period, the day on which the patient receives counselling must not be included (section 187 (1) German Civil Code *[Bürgerliches Gesetzbuch – BGB]*). The **period of time ends on expiry of the last day of that period** (section 188 (1) BGB).

Example:
Thursday: Counselling session Friday: start of the time period, day one of the time period
Saturday: day two of the time period
Sunday: day three of the time period
Monday: Termination of pregnancy may be carried out

Pregnancy conflict counselling centres
Recognised pregnancy conflict centres are funded by public and independent providers. Statutory conflict counselling is, therefore, provided by faith-based and non-denominational welfare associations and other independent providers and associations (e.g. Workers' Welfare Association *[Arbeiterwohlfahrt]*, Association of Independent Voluntary Welfare Organisations *[Deutscher Paritätischer Wohlfahrtsverband]*, German Red Cross *[Deutsches Rotes Kreuz]*, Protestant Welfare Association *[Diakoni-*

sches Werk], donum vitae, pro familia). In some municipalities, pregnancy conflict counselling is also provided by local health authorities and by various doctors. Information about local organisations and their addresses are included in the list of addresses in the annex or can be obtained from the local social welfare office. The website of the Federal Institute of Public Health *(Bundesinstitut für Öffentliche Gesundheit– BIÖG)* **www.familienplanung.de**, funded by the Federal Ministry of Education, Family Affairs, Senior Citizens, Women and Youth *(Bundesministerium für Bildung, Familie, Senioren, Frauen und Jugend – BMBFSFJ)*, contains a search engine that lists the pregnancy and pregnancy conflict counselling centres of all providers near the place of residence in a given area.

What are recognised pregnancy conflict counselling centres?

Pregnancy conflict counselling centres have to be specifically recognised by the state (section 9 SchKG). The prerequisite for this recognition is the provision of appropriate pregnancy conflict counselling as defined in section 5 SchKG and the ability to conduct the counselling in accordance with the statutory requirements. Of particular importance are adequate staffing by individuals with the necessary personal and professional qualifications, the ability to call in additional specialists at short notice, and cooperation with all agencies providing assistance to mother and child. Furthermore, they must not have any organisational or economic links to institutions performing pregnancy terminations of such a nature that a financial interest in the performance of said terminations cannot be ruled out.

Counselling centres must prepare an annual written report on their counselling activities setting out the standards governing their activities and the experience gained (section 10 (1) SchKG).

The records prepared by counselling professionals for each counselling session serve as the basis for the annual reports. These records must not permit any conclusions to be drawn about the identity of the pregnant woman or any other individuals who took part in the session. They record the essential content of the session and the types of assistance offered (section 10 (2) SchKG). The annual reports enable the competent authorities to monitor the work of the counselling centre. Recognition of a counselling centre is subject to review by the competent authority at least every three years. For this purpose, the authority may view the records mentioned above. Where any of the conditions required for recognition under section 9 SchKG is no longer met, recognition must be revoked (section 10 (3) SchKG).

What does pregnancy counselling entail for terminations on medical grounds?

A termination on medical grounds may arise in either of two situations:

- Prenatal diagnostic testing has identified a serious illness or disability affecting the child that poses a risk to the pregnant woman's life or a risk of serious harm to her mental or physical health, which cannot be averted by any other means.
- A risk to the pregnant woman's life or a risk of serious harm to her physical or mental health, which cannot be averted by any other means, has been identified that is not connected with an illness or disability of the child (grounds related solely to the mother).

In both cases, pregnant women have a considerable need for information and counselling, which is ensured by the Act on Pregnancies in Conflict Situations. The Act also sets out key provisions for medical counselling.

Counselling by the doctor communicating the diagnosis

Counselling following communication of an abnormal test result
Where there is compelling evidence that the health of the child is impaired, the **doctor** communicating the diagnosis must **counsel** the woman as to the medical, psychological and social aspects of the test result and advise her about the support available to help her cope with the physical and mental strain. In such cases, doctors experienced in treating the suspected health condition in children after birth must also be consulted. The counselling must be conducted in a manner that is easily understandable and non-directive.

In addition, the doctor communicating the diagnosis must inform the pregnant woman of her right to further and more **in-depth psychosocial counselling** in a counselling centre. With the pregnant woman's consent, contact is to be established with a corresponding counselling centre and with self-help groups or disability associations.

The doctor communicating the diagnosis must provide the pregnant woman with **information material** published by the Federal Institute of Public Health (BIÖG). This material contains information on living with a disabled child and the lives of people with disabilities. It also explains the legal right to psychosocial counselling in a counselling centre and lists the addresses of self-help groups, counselling centres, disability associations and associations for parents of disabled children.

Counselling by the doctor who determines the medical grounds

Before medical grounds are determined in writing, **the doctor** responsible for determining that there are medical grounds for terminating a pregnancy must first **counsel** the pregnant woman as to the medical and psychological aspects of a termination of pregnancy.

The doctor responsible for issuing the written determination of medical grounds must also ensure that a **3-day period of reflection** has elapsed **between communicating the diagnosis and producing the written determination** of medical grounds for terminating the pregnancy. This gives the pregnant women affected and their partners the necessary time to come to terms with the shock and serves to ensure they can make an informed and responsible decision as to whether they will be able to cope with the anticipated strain or whether it would pose a risk to their life or health. The period of reflection does not apply where there is an immediate risk to the pregnant woman's life or physical wellbeing.

When determining in writing that the medical grounds for terminating a pregnancy have been met, the doctor must obtain **written confirmation from the pregnant woman** stating that she has received counselling, has been referred to a counselling centre or has chosen to forego counselling or referral.

The pregnant woman is not, however, obliged to undergo counselling. Rather, the doctor is required to provide her with comprehensive counselling and information and, where necessary, to refer her to a counselling centre, self-help groups or disability associations. The pregnant woman may forego both information and counselling (either in whole or in part) as well as any referral. If she does so, she should nonetheless confirm to the doctor who issues the written determination that she has either received or has chosen to forego counselling.

The aim of counselling

The aim of non-directive support and counselling is to consider all aspects of the possible disability, to support the pregnant woman and, where applicable, her partner by exploring their current and future circumstances and the burdens they may face, and to consider possible solutions for coming to terms with the pregnancy-related conflict. Psychosocial counselling by a counselling centre is especially well suited to examining the impact of their child's potential disability on their family and those around them, as well as aspects of the disabled person's life and of life with a disabled child. Pregnant women and couples can express their concerns and fears, and discuss various aspects of a possible termination of the pregnancy.

The provision serves to ensure that an informed and sound assessment can be made as to whether the pregnant woman can cope with the expected burdens or whether they would pose a risk to her life or health. Counselling helps pregnant women make up their minds and also assists the doctor responsible for determining medical grounds for termination (recommendation or authorisation of the medical procedure).

Counselling by the doctor who determines the medical grounds

Counselling in the case of medical grounds relating solely to the mother (no abnormal results)
Before medical grounds are determined in writing, **the doctor responsible for issuing the written determination of these medical grounds** must counsel the pregnant woman as to the medical and psychological aspects of a termination in order to ensure that she is fully informed.

The doctor must also inform the pregnant woman of her right to further, more in-depth psychosocial counselling in a pregnancy conflict counselling centre. With the pregnant woman's consent, contact with an appropriate counselling centre is to be established.

- The doctor **must ensure** that a 3-day period of reflection elapses **between counselling** on the medical and psychological aspects of a termination of pregnancy and the **written determination** that the preconditions for a termination of pregnancy on medical grounds have been met. The period of reflection does not apply where there is an immediate risk to the pregnant woman's life or physical wellbeing.
- **Written confirmation provided by the pregnant woman.** When determining in writing that the medical grounds for terminating a pregnancy have been met, the doctor must obtain written confirmation from the pregnant woman that she has received counselling, has been referred to a counselling centre or has chosen to forego counselling or referral.

The pregnant woman is **not**, however, **obliged to undergo counselling**. Rather, the doctor is required to provide her with comprehensive counselling and information and, where necessary, to refer her to a counselling centre, self-help groups or disability associations. The pregnant woman may forego all or part of the information and counselling, as well as referral to a counselling centre. She should, however, confirm to the doctor who issues the written determination that she has either received or has chosen to forego counselling.

Administrative offences

Any doctor who fails to counsel pregnant women or who does not comply with the prescribed three-day period commits an administrative offence under section 35 SchKG.

Where can pregnancies be terminated?

Recognised pregnancy conflict counselling centres

The federal *Länder* are required to ensure the availability of a sufficient number of inpatient and outpatient facilities for the performance of termination of pregnancies. These facilities must also provide the necessary aftercare (section 13 SchKG).

During the pregnancy conflict counselling session, the pregnant woman must be given any medical, social and legal information required in order to improve the situation of mother and child (section 5 (2) (2) SchKG). This includes information about nearby facilities that perform terminations of pregnancy. The German Medical Association *(Bundesärztekammer – BAK)* has a list of doctors as well as hospitals and facilities that have informed the BAK that they perform terminations of pregnancy. Inclusion on this list is voluntary. It also contains any information provided regarding the different methods used to perform terminations of pregnancy. The German Medical Association updates this list on a monthly basis and publishes it online at **www.bundesaerztekammer.de**. The list is also published by the Federal Institute of Public Health (BIÖG) at **www.familienplanung.de**. The “Pregnant women in distress” helpline also offers information about the list and can be reached on the emergency telephone number +49 800 40 40 020.

Who covers the costs of terminating a pregnancy?

Health insurance funds cover the costs of terminations on medical or crime-related grounds

The costs of a termination of pregnancy carried out on specific grounds are covered by statutory health insurance. In general, private health insurers usually cover only terminations on medical grounds. In cases involving crime-related grounds, reimbursement of costs depends on the private insurer concerned.

The costs of a termination carried out under the counselling provision are not covered by statutory health insurance. However, statutory health insurance does cover the costs of medical treatment during pregnancy and any aftercare should complications arise.

Coverage of costs in cases of financial need

Where a pregnant women cannot reasonably be expected to find the funds for the termination and where she has her place of residence or habitual abode in Germany, she is entitled to have the costs covered by the statutory health insurance system (section 19 SchKG). The federal *Länder* reimburse the health insurance funds for costs incurred for terminations (sections 19 to 22 SchKG).

The precondition for the reimbursement of the costs of a termination is financial need. Women are deemed to be in financial need when their disposable personal income does not exceed the statutory income thresholds (section 19 (2) SchKG) and they do not have any available short-term assets.

The income thresholds are generally adjusted each year, and information regarding the thresholds can be obtained from the statutory health insurance funds.

Financial need is presumed without further assessment in the case of women who receive any of the following benefits or assistance:

- Subsistence assistance under Book XII of the German Social Code *(Sozialgesetzbuch XII – SGB XII)*
- Citizen's benefit (under Book II SGB)
- Financial assistance for vocational education and training under the provisions of the Federal Employment Agency *(Bundesagentur für Arbeit – BA)* on individual support for vocational education and training or on employment and vocational support for people with disabilities
- Training assistance under the Federal Training Assistance Act *(Bundesausbildungsförderungsgesetz – BAföG)*
- Benefits under the Asylum Seekers Benefits Act *(Asylbewerberleistungsgesetz – AsylbLG)*.

The same applies to women who live in an institution, a home or a similar facility where the accommodation costs are borne by a social assistance or youth welfare provider.

The costs are covered on application to the statutory health insurance fund with which the woman is insured. If she is not insured with a statutory health insurance fund, she may choose a local statutory health insurance fund operating at her place of residence or habitual abode. The statutory health insurance fund issues a certificate confirming coverage of the costs and settles the amount payable. Application forms for cost reimbursement can be obtained from the statutory health insurance funds and, as a rule, from facilities that perform terminations.

Additional benefits

In the case of terminations on specified grounds and those carried out under the counselling provision, employees are entitled to continued remuneration if they are unfit for work.

However, no sickness benefit is paid for any period of incapacity for work resulting from the termination.

What does general pregnancy counselling entail?

Contents of general pregnancy counselling

Every person may obtain information and counselling, anonymously if they wish, from a dedicated counselling centre on matters relating to sex education, contraception, family planning and on any matters directly or indirectly connected with pregnancy (section 2 (1) SchKG). Counselling is usually provided free of charge.

The right to counselling includes, among other things:

- Information on existing statutory benefits and assistance for families and children;
- Check-ups during pregnancy (including special prenatal tests), social and financial assistance for pregnant women, possible solutions to psychosocial conflicts which arise in connection with a pregnancy;
- Adoption;
- Types of assistance available to people with a disability and their families (see section 2 (2) sentence 1 SchKG).

In addition, support must be provided for a pregnant woman, where needed, in asserting her rights, in finding accommodation and in securing childcare for the child she is carrying, and in the continuation of her vocational education and training (section 2 (2) SchKG). The right to counselling also includes follow-up support after the termination of a pregnancy or the birth of a

child (section 2 (3) SchKG). Unlike statutory pregnancy conflict counselling, general pregnancy counselling does not involve the issuing of a counselling certificate.

Assistance from the Federal Foundation "Mother and Child"

Applications for financial assistance from the Federal Foundation "Mother and Child – Protection of Unborn Life" may also be made through the counselling centres. This aid may be granted as supplementary support to pregnant women in an emergency situation for whom all statutory benefits (e.g. unemployment benefit II, social assistance, advance maintenance payments or housing benefit) have been exhausted, are insufficient or cannot be approved in time. Assistance from the Federal Foundation is provided, in particular, to cover the costs of the initial baby essentials, to maintain the household, housing and furnishings, and for the care of the infant. Its purpose is to assist expecting mothers in individual emergency situations from an early stage of pregnancy onwards. Detailed information about the Federal Foundation, its services, the application procedure, eligibility requirements and fund allocation can be accessed on the Internet at www.bundestiftung-mutter-und-kind.de.

General pregnancy counselling centres are operated by faith-based and non-denominational welfare organisations and other independent providers (e.g. Workers' Welfare Association *[Arbeiterwohlfahrt]*, Association of Independent Voluntary Welfare Organisations *[Deutscher Paritätischer Wohlfahrtsverband]*, German Red Cross *[Deutsches Rotes Kreuz]*, Protestant Welfare Association *[Diakonisches Werk]*, donum vitae, Caritas, Catholic Women's Welfare Service [*Sozialdienst katholischer Frauen]* and pro familia).

Information about local organisations and their addresses are included in the list of addresses in the annex or can be obtained from the local social welfare office.

The website of the Federal Institute of Public Health (BIÖG) www.familienplanung.de, funded by the Federal Ministry of Education, Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), contains a search engine that lists the pregnancy and pregnancy conflict counselling centres of all providers near the user's entered place of residence in a given area.

What does protection from so-called street harassment entail?

Pregnant women must be able to attend pregnancy conflict counselling which is a requirement for termination of a pregnancy that is not punishable, without being disturbed. Since November 2024, the German Pregnancy Conflict Act has, therefore, prohibited the harassment of pregnant women outside pregnancy conflict counselling centres (street harassment).

To be more precise, certain forms of conduct are prohibited within 100 metres of a counselling centre where they are likely to interfere with the counselling (section 8 (2) SchKG). Such conduct includes, for example:

- deliberately making it more difficult for a pregnant woman to enter or leave the counselling centre by placing an obstruction in her way;
- knowingly imposing an opinion on a pregnant woman, by speaking to her about her decision whether to continue her pregnancy;
- harassing, intimidating or otherwise placing a pregnant woman under considerable pressure in a comparable manner in order to influence her decision whether to continue her pregnancy;

- giving or showing a pregnant woman images relating to pregnancy or termination of pregnancy where they contain false statements of fact or are clearly likely to provoke an immediate and substantial emotional reaction, particularly fear, disgust, shame or guilt.

The same rules apply outside facilities that perform terminations of pregnancy (section 13 (3) SchKG).

Furthermore, it is prohibited to deliberately obstruct staff in the performance of their duties whether in providing counselling, issuing counselling certificates or carrying out terminations of pregnancy (section 8 (3) and section 13 (4) SchKG).

Anyone who breaches these prohibitions may be fined up to 5000 euros (section 35 SchKG).

What does the confidential birth option entail?

A pregnant woman wishing or needing to keep her pregnancy or birth secret will find herself in an immensely stressful situation, both physically and emotionally. She urgently needs assistance to enable her to give birth with appropriate medical care and, ideally, to decide to share her life with her child. The introduction of what is known as the confidential birth option therefore encompasses a wide range of measures (section 1 (4) and (5), section 2 (4), sections 25–34 SchKG). They are specifically designed to also encourage women who deny or conceal their pregnancy – and who were not reachable up to that point by the regular support system – to accept psychosocial counselling and medically assisted childbirth.

Accordingly, section 1 (4) of the Act on Pregnancies in Conflict Situations requires the Federal Government to raise public awareness of the assistance available to pregnant women and mothers, specifically stressing the fact that all pregnant women have a right to anonymous counselling.

Against this backdrop, efforts must be made to engage with and raise the awareness of people around the women concerned. In this context, the Federal Government also seeks to foster understanding for parents who give up their child for adoption. The Federal Government organises the nationwide "Pregnant women in distress" helpline for pregnant women experiencing psychosocial conflicts. The emergency telephone number is **+49 800 40 40 020**. This accessible helpline provides around-the-clock assistance in multiple languages. The telephone helpline is supplemented by chat and email counselling, enabling women to obtain direct assistance and answers online.

Both mother and child benefit from this support. The mother receives expert and continuous assistance and counselling even after the birth of her child.

Confidential birth procedure

The confidential birth procedure, governed by sections 26 to 34 SchKG, is built around the needs of mother and child. When, after in-depth, non-directive counselling, a woman opts for a confidential birth, she first chooses a pseudonym (assumed name, alias) and one or more first names for her child. The counselling centre then records her personal details in what is termed a certificate of parentage and securely seals this in an envelope. The woman's pseudonym, the child's birth details and the address of the counselling centre are written on the envelope. This enables the envelope to be matched to the child.

Using her pseudonym, the counselling centre makes an appointment for the pregnant woman to give birth in a hospital or with a midwife. The aim here is to calm her fears of the registration formalities and duties to disclose. To enable the local youth office to make timely arrangements for the child, the counselling centre is required to notify the local youth office of the impending birth.

After delivery, the hospital or, in the case of a home birth, the midwife is duty bound to immediately inform the counselling centre about the place and date of birth. The counselling centre then records these details on the envelope which is then sent for safekeeping to the Federal Office of Family Affairs and Civil Society Functions *(Bundesamt für Familie und zivilgesellschaftliche Aufgaben – BAFzA)*. Furthermore, under section 18 of the Civil Status Act *(Personenstandsgesetz – PStG)*, the hospital or midwife must also notify the registry office of the birth within one week. To ensure the mother's anonymity is protected, only the mother's pseudonym needs to be supplied for this purpose in addition to the first name(s) chosen by the mother as well as the place, date, hour and minute of the birth and the child's sex. The registry office informs the Federal Office of Family Affairs and Civil Society Functions of the child's officially registered name and the mother's pseudonym.

Where a pregnant woman who opts for a confidential birth is admitted for delivery without prior counselling, the hospital or midwife must immediately inform a local counselling centre near her place of residence (section 29 (1) SchKG. In such cases, the counselling centre will make sure the woman is promptly offered proper counselling – even after delivery. If the woman refuses counselling, the principle of continuous assistance towards resolving the conflict (section 30 (2) sentence 3 SchKG) applies here, too. This means that, in this case too, the women will not be left to fend for themselves but will have access to ongoing assistance and support.

The professional staff in the counselling centres are required to inform the pregnant woman about how to assert her rights in relation to her child following a confidential birth (section 25 (2) sentence 2 no. 5 SchKG). The aim here is to prevent the child being separated from the mother against her wishes. Before the child's adoption becomes legally effective, the mother's wish to take back her child can only be denied where this is necessary to protect the child's best interests (section 1674a in conjunction with sections 1666, 1666a BGB).

Certificate of parentage

On reaching the age of 16, a child born confidentially has the right to access the original certificate of parentage filed with the Federal Office of Family Affairs and Civil Society Functions or to ask for copies of it (right of access).

From the time the child reaches the age of 15, the mother may, under her pseudonym, notify a counselling centre of any interests or concerns that conflict with the child's right of access. The counselling centre must point out available assistance options to the mother and discuss with her possible measures to avert the risks she fears. The child may assert their right of access through the courts.

What do the federal statistics on pregnancy terminations contain?

Federal statistics on terminations of pregnancy

Federal statistics are compiled on terminations of pregnancy carried out in accordance with section 218a (1)-(3) of the German Criminal Code. The statistics are collected and processed by the Federal Statistical Office (section 15 SchKG).

Medical practices and hospitals that carry out terminations of pregnancy are required to provide information for the federal statistics (section 18 (1) SchKG). The information to be compiled is prescribed by law. The reporting bodies must not communicate the name of the woman terminating a pregnancy (see section 16 (1) SchKG). The information specified in section 16 (1) SchKG as well as nil returns must be reported to the Federal Statistical Office on a quarterly basis by the end of each quarter (section 16 (2) SchKG).

By establishing rules for the compilation of official statistics, the legislature has created the preconditions for monitoring the impact of the statutory protective approach.

The statistics are available on the website of the Federal Statistical Office: www.destatis.de.

Legal provisions

Excerpts from the German Criminal Code (StGB)

Section 170

Breach of maintenance obligation

(1) Whoever evades a statutory maintenance obligation so that the necessities of life of the person entitled to maintenance are endangered or would be endangered without the assistance of others incurs a penalty of imprisonment for a term not exceeding three years or a fine.

(2) Whoever is obliged to pay maintenance to a pregnant woman and reprehensibly withholds this maintenance, thereby causing a termination of the pregnancy, incurs a penalty of imprisonment for a term not exceeding five years or a fine.

Section 218

Termination of pregnancy

(1) Whoever terminates a pregnancy incurs a penalty of imprisonment for a term not exceeding three years or a fine. Acts whose effects occur before nidation is completed are not deemed to be a termination of pregnancy within the meaning of this statute.

(2) In especially serious cases, the penalty is imprisonment for a term of between six months and five years. An especially serious case typically occurs where the offender

1. acts against the will of the pregnant woman or
2. recklessly places the pregnant woman in danger of death or at risk of serious damage to health.

(3) If the act is committed by the pregnant woman, the penalty is imprisonment for a term not exceeding one year or a fine.

(4) The attempt is punishable. The pregnant woman is not liable for attempt.

Section 218a

Exemption from punishment for termination of a pregnancy

(1) The elements of the offence under section 218 are not deemed fulfilled if

1. the pregnant woman requests the termination of pregnancy and demonstrates to the doctor by producing the certificate referred to in section 219 (2) sentence 2 that she obtained counselling at least three days prior to the procedure,
2. the termination is performed by a doctor
3. no more than twelve weeks have elapsed since conception.

(2) A termination which is performed by a doctor with the consent of the pregnant woman is not unlawful if, considering the pregnant woman's present and future circumstances, the termination is medically necessary to avert a danger to the life of or the danger of grave impairment to the pregnant woman's physical or mental health and if the danger cannot be averted in another manner which is reasonable for her to accept.

(3) The conditions of subsection (2) are also deemed fulfilled with regard to a termination performed by a doctor with the consent of the pregnant woman if, according to medical opinion, an unlawful act under sections 176 to 178 has been committed against the pregnant woman, there are cogent reasons to support the assumption that the pregnancy was caused by the act and no more than 12 weeks have elapsed since conception.

(4) The pregnant woman does not incur the penalty specified in section 218 if the termination was performed by a doctor after counselling (section 219) and no more than 22 weeks have elapsed since conception. The court may dispense with imposing a penalty pursuant to section 218 if the pregnant woman was in exceptional distress at the time of the procedure.

Section 218b

Termination of a pregnancy without medical certification; incorrect medical certification

(1) Whoever terminates a pregnancy in the cases under section 218a (2) or (3) without having received the written determination of a doctor who is not performing the termination as to whether the conditions of section 218a (2) or (3) were met incurs a penalty of imprisonment for a term not exceeding one year or a fine, unless the act is subject to a penalty under section 218. Whoever, in the capacity as a doctor, despite knowing better, makes an incorrect determination as to the conditions of section 218a (2) or (3) for presentation in accordance with sentence 1 incurs a penalty of imprisonment for a term not exceeding two years or a fine, unless the act is subject to a penalty under section 218. The pregnant woman does not incur the penalty specified in sentence 1 or 2.

(2) Doctors may not make determinations as referred to in section 218a (2) or (3) if the competent agency has prohibited them from doing so because they have been convicted by final judgment for an unlawful act under subsection (1) or under sections 218 or 219b or for another unlawful act which they committed in connection with the termination of a pregnancy. The competent agency may provisionally prohibit a doctor from making the determinations referred to in section 218a (2) and (3) if main proceedings have been opened on the basis of the suspicion that the doctor has committed one of the unlawful acts referred to in sentence 1.

Section 218c

Breach of medical duties in connection with termination of a pregnancy

(1) Whoever terminates a pregnancy

1. without having given the woman the opportunity to explain the reasons for requesting that the pregnancy be terminated,
2. without having given the pregnant woman medical advice about the significance of the procedure, in particular about the steps in the procedure, its after-effects, risks and possible physical or psychological consequences,
3. in the cases under section 218a (1) and (3) without having previously determined, on the basis of a medical examination, the length of the pregnancy or
4. despite having counselled the woman in accordance with section 219 in a case under section 218a (1) incurs a penalty of imprisonment for a term not exceeding one year or a fine, unless the act is subject to a penalty under section 218.

(2) The pregnant woman does not incur the punishment specified in subsection (1).

Section 219

Counselling of a pregnant woman in an emergency or conflict situation

(1) Counselling serves to protect the unborn life. It must be guided by efforts to encourage the woman to carry the child to term and to open her up to the prospects of a life with the child; it is intended to help her to make a responsible and conscientious decision. The woman must thereby be aware that at every stage of the pregnancy the unborn child has its own right to life in relation to her as well and that therefore, according to the law, the termination of the pregnancy can only be considered in exceptional situations if carrying the child to term would impose a burden on the woman which is so serious and exceptional that it exceeds the reasonable limits of sacrifice. By providing advice and assistance, the counselling is intended to contribute to overcoming the conflict situation which exists in connection with the pregnancy and to remedying an emergency situation. Further details are regulated by the Act on Pregnancies in Conflict Situations.

(2) In accordance with the Act on Pregnancies in Conflict Situations, the counselling must be provided by a recognised counselling agency for women in conflict situations. After the counselling, the counselling agency is required to issue the pregnant woman with a certificate in accordance with the Act on Pregnancies in Conflict Situations bearing the date of the last counselling session and the name of the pregnant woman. The doctor who terminates the pregnancy may not provide the counselling.

Section 219b

Placing on the market of substances used to terminate a pregnancy

Whoever, with the intent of encouraging unlawful acts under section 218, places the means or objects which are suited to terminating a pregnancy on the market incurs a penalty of imprisonment for a term not exceeding two years or a fine.

(1) Participation by a woman preparing the termination of her own pregnancy is not punishable under subsection (1).

(2) Means or objects relating to the offence may be confiscated.

Section 240

Coercion

(1) Whoever unlawfully, by force or threat of serious harm, compels a person to do, acquiesce to or refrain from an act incurs a penalty of imprisonment for a term not exceeding three years or a fine.

(2) The act is unlawful if the use of force or the threat of harm is deemed reprehensible in respect of the desired objective.

(3) The attempt is punishable.

(4) In especially serious cases, the penalty is imprisonment for a term of between six months and five years. An especially serious case typically occurs where the offender

1. coerces a pregnant woman to terminate the pregnancy or
2. abuses his or her powers or position as a public official.

Act on Pregnancies in Conflict Situations *(Schwangerschaftskonfliktgesetz – SchKG)*

Division 1
Information, Contraception, Family Planning and Counselling

Section 1

Information

(1) For the purpose of preventive healthcare and the prevention and resolution of pregnancy conflicts, the Federal Centre for Health Education *(Bundeszentrale für gesundheitliche Aufklärung – BZgA)*, which is responsible for health information and health education, must, with the participation of the federal *Länder* and in cooperation with representatives of family counselling centres operated by all providers, develop sex education concepts tailored to the various age groups and persons.

(1a) In accordance with subsection (1), the Federal Centre for Health Education must compile information material on living with a mentally or physically disabled child and on life for people with mental or physical disabilities. The information material must contain pointers about the legal right to psychosocial counselling under section 2 and contact associations for parents of disabled children.

The doctor must give the pregnant women this information material during the counselling session under section 2a (1).

(2) For the purposes referred to in subsection (1), the Federal Centre for Health Education must distribute uniform educational material throughout Germany that contains comprehensive details of methods and means of contraception.

(3) The educational material must be provided free of charge to individuals on request, as teaching or information material to schools and vocational training facilities, counselling centres, gynaecologists, doctors and medical facilities which perform prenatal diagnostics, human geneticists and all institutions involved in youth work and education.

(4) The Federal Government must make known the assistance available to pregnant women and mothers; this includes the right to anonymous counselling pursuant to section 2 (1) and to confidential birth. Information on confidential birth must also explain how a woman, by relinquishing her anonymity, can assert her rights in relation to her child following a confidential birth and how she can invoke interests deserving of protection against the subsequent disclosure of her civil status details. The Federal Government must take appropriate steps to promote understanding for parents who give up their child for adoption.

(5) The Federal Government must ensure, by means of a nationwide central helpline, that pregnant women in conflict situations who keep their pregnancy secret can be referred at any time and without delay to a counselling centre under sections 3 and 8 (1). It must make known the emergency number throughout Germany and conduct continuous public information activities relating to it.

Section 2

Counselling

(1) For the purposes referred to in section 1 (1), every person has the right to obtain, anonymously if so requested, information and counselling on matters relating to sex education, contraception, family planning and on all matters directly or indirectly connected with pregnancy from a designated counselling centre.

(2) The right to counselling includes information on:

1. sex education, contraception and family planning;
2. existing family support benefits and assistance for children and families, including special employment rights;
3. check-ups during pregnancy and the costs of childbirth;
4. social and financial assistance for pregnant women, in particular financial benefits and assistance in finding or retaining accommodation, employment or a place in vocational education and training;
5. assistance options for disabled people and their families before and after the birth of a child whose physical, mental or psychological health is impaired;
6. methods of terminating a pregnancy, the physical and psychological consequences of a termination and the associated risks;
7. possible ways of resolving psycho-social conflicts connected with pregnancy;
8. the legal and psychological aspects of adoption.

In addition, the pregnant woman must be supported in asserting her rights, finding accommodation, securing childcare and continuing her education or training. At the pregnant woman's request, third parties must be involved in the counselling.

(3) The right to counselling also includes follow-up support after the termination of a pregnancy or the birth of a child.

(4) A pregnant woman who is unwilling to disclose her identity and wishes to give up her child after birth must be offered in-depth, non-directive counselling to help her resolve the psychosocial conflict situation. The counselling covers:

1. appropriate forms of assistance that help her cope with the situation and reach a decision, and
2. options that enable the pregnant woman to relinquish her anonymity or to spend her life with her child.

Section 2a

Information and counselling in special circumstances

(1) Where the results of prenatal diagnostic testing provide compelling reasons to believe the child's physical or mental health is impaired, the doctor who informs the pregnant woman of the diagnosis must, without delay and no later than three days after communicating the results, counsel her on the medical and psychosocial implications of the test results. Doctors experienced in the relevant health impairment in children after birth must be involved in the counselling. The counselling must be easily understandable to a layperson and non-directive. It must include a detailed discussion of possible medical, psychological and social aspects as well as the support options in the event of physical and mental strain. The doctor must inform the pregnant woman of her right to further, more in-depth psychosocial counselling under section 2 and, with her consent, arrange contact with counselling centres under section 3 and with self-help groups or disability associations.

(2) Before issuing the written determination under section 218b (1) of the German Criminal Code as to whether the requirement of section 218a (2) of the German Criminal Code has been met, the doctor who must issue the written determination under section 218b (1) must advise the pregnant woman on the medical and psychological aspects of a termination of pregnancy, inform her of her right to further, more in-depth psychosocial counselling under section 2 and, with her consent, arrange contact with counselling centres under section 3 insofar as this has not already been done under subsection (1). The written determination may not be issued until three days have elapsed since communication of the diagnosis under subsection (1) sentence 1 or after the counselling referred to in sentence 1 of this subsection. This does not apply where the pregnancy must be terminated in order to avert an immediate and significant risk to the pregnant woman's life or physical wellbeing.

(3) The doctor responsible for making the written determination of the grounds must, when making that written determination, but not before the expiry of the reflection period referred to in subsection (2) sentence 2, obtain written confirmation from the pregnant woman that she has received the counselling and referral referred to in subsections (1) and (2) or has chosen to forego them.

Section 3

Counselling centres

The federal *Länder* must provide a sufficient number of local counselling centres for counselling under subsection (2). Counselling centres operated by independent providers are also funded. Individuals seeking advice should be able to choose between counselling centres with differing religious or philosophical outlooks.

Section 4

Public funding of counselling centres

(1) The federal *Länder* must ensure that the counselling centres under sections 3 and 8 (1) have at least one full-time counsellor or an equivalent number of part-time counsellors for every 40,000 inhabitants.

A departure from this ratio should be undertaken where, in the long term, the counselling centres cannot properly carry out their work with the prescribed staffing levels. In this respect, due consideration must also be given to the need for pregnant women to be able to visit a counselling centre within reasonable distance of where they live.

(2) In an effort to provide information about the services offered in the local catchment area and to ensure comprehensive counselling, the counselling centres must cooperate in the networks referred to in section 3 of the Act on Cooperation and Information in Child Protection (Gesetz zur Kooperation and Information im Kinderschutz – KKG).

(3) The counselling centres required under sections 3 and 8 (1) to ensure an adequate provision of services are entitled to appropriate public funding for their staffing and operating costs.

(4) Further details are regulated by federal Länder law.

Division 2
Pregnancy Conflict Counselling

Section 5

Content of pregnancy conflict counselling

(1) The counselling required under section 219 of the German Criminal Code must be non-directive. It proceeds on the basis that responsibility lies with the pregnant woman. Counselling should encourage and foster understanding, rather than instruct or patronise. Pregnancy conflict counselling serves to protect unborn life.

(2) The counselling comprises:

1. entering into conflict counselling; in this context the pregnant woman is expected to inform the counsellor of her reasons for considering a termination of her pregnancy; the nature of counselling precludes compelling the pregnant woman to engage in the discussion or to cooperate;
2. any medical, social and legal information required in the circumstances, an explanation of the legal rights of both mother and child and of the practical assistance options available, in particular support that facilitates the continuation of the pregnancy and eases the situation of mother and child;
3. the offer to help the pregnant woman assert her rights, find accommodation, make childcare arrangements and continue her education or training, as well as the offer of follow-up support. At the pregnant woman's request, the counselling will also provide information about ways to avoid unwanted pregnancies.

Section 6

Conduct of pregnancy conflict counselling

(1) Any pregnant woman seeking counselling must receive counselling without delay.

(2) At her request, the pregnant woman may maintain her anonymity vis-a-vis the counsellor.

(3) Where necessary and with the pregnant woman's consent, the following persons are to be involved in the counselling sessions:

1. other professionals, particularly those with medical, specialist medical, psychological, social education, social work or legal qualifications;
2. professionals with special experience in early intervention for disabled children, and
3. other persons, in particular the biological father and close relatives.

(4) Counselling is free of charge for the pregnant woman and for the persons involved under subsection (3) no. 3.

Section 7

Counselling certificate

(1) On completion of counselling, the counselling centre must issue the pregnant woman with a certificate bearing her name and the date confirming that counselling under sections 5 and 6 has taken place.

(2) If, after the counselling session, the counsellor considers that the session needs to be continued, it should be continued without delay.

(3) The issuing of a counselling certificate must not be refused if continuation of the counselling session might make it impossible to observe the time limits laid down in section 218a (1) of the German Criminal Code.

Section 8

Pregnancy conflict counselling centres; prohibition of harassment

(1) For the purpose of counselling under sections 5 and 6, the federal *Länder* must ensure there is an adequate and diverse range of counselling centres close to the users' places of residence, unobstructed access to these centres and counselling free from interference in the counselling centres pursuant to subsections (2) and (3). These counselling centres require specific recognition by the state under section 9. Facilities operated by independent providers and doctors may also be recognised as counselling centres.

(2) Within 100 metres of the entrance area to the counselling centres, it is prohibited to engage, in a manner perceptible to the pregnant woman that may impair counselling of the pregnant woman in the counselling centre, in any of the following:

1. deliberately making it more difficult for a pregnant woman to enter or leave the counselling centre by placing an obstruction in her way;
2. knowingly imposing an opinion on a pregnant woman, by speaking to her about her decision whether to continue her pregnancy;

3. harassing, intimidating or otherwise placing a pregnant woman under considerable pressure in a comparable manner in order to influence her decision as to whether to continue her pregnancy;
4. handing over, showing, playing or otherwise communicating to a pregnant woman, for her direct attention, content within the meaning of section 11 (3) of the German Criminal Code relating to pregnancy or termination of pregnancy, where said content:
   a) contains false statements of fact, or
   b) is clearly intended to provoke, in a pregnant woman, an immediate and substantial emotional reaction, particularly fear, disgust, shame or guilt.

(3) It is prohibited to deliberately obstruct the staff of counselling centres when providing counselling under section 6 (1) and (3) or when issuing a counselling certificate under section 7 (1).

Section 9

Recognition of pregnancy conflict counselling centres

A counselling centre may be recognised only if it provides assurances that pregnancy conflict counselling will be delivered in accordance with professional standards under section 5 and if it is capable of providing pregnancy conflict counselling under section 6, and more particularly if it:

1. is adequately staffed by individuals who have the necessary personal attributes and professional qualifications;
2. ensures that, where necessary for the provision of counselling, a professional with medical, specialist medical, psychological, social education, social work or legal qualifications can be brought in at short notice;
3. cooperates with all agencies providing public or private assistance to mother and child; and
4. has no organisational or financial links to any facility in which terminations of pregnancy are performed of such a nature that a financial interest of the counselling centre in the performance of terminations of pregnancy cannot be ruled out.

Section 10

Reporting obligations and review of pregnancy conflict counselling centres

(1) Counselling centres must set down annually, in a written report, the standards on which their counselling activities are based and the experience gained in the course of their activities.

(2) As a basis for the written report required under subsection (1), the counsellor must prepare a record of each counselling session. The record must not permit any conclusions to be drawn about the identity of the pregnant woman or any other persons involved in the counselling session. It records the essential content of the counselling and the assistance offered.

(3) The competent authority must review at least every three years whether the requirements for recognition under section 9 are still met. For this purpose, it may require submission of the reports under subsection (1) and inspection of the records kept under subsection (2). If any requirement under section 9 ceases to be met, recognition must be withdrawn.

Section 11

Transitional provision

Recognition of a counselling centre under point II.4 of the judgment of 28 May 1993 of the Federal Constitutional Court *(Bundesverfassungsgericht – BverfG)* (Federal Law Gazette *[Bundesgesetzblatt – BGBl.]* I, p. 820) is deemed equivalent to recognition under sections 8 and 9 of this Act.

Division 3
Performance of Terminations of Pregnancy

Section 12

Refusal

(1) No person is obliged to participate in the termination of a pregnancy.

(2) Subsection (1) does not apply where said participation is necessary to avert an otherwise unavoidable risk to the life of the pregnant woman or of serious harm to her health.

Section 13

Facilities for the performance of terminations of pregnancy, prohibition of harassment

(1) A termination of pregnancy may be performed only in a facility in which the necessary aftercare is ensured.

(2) The federal *Länder* are required to ensure the availability of a sufficient number of inpatient and outpatient facilities for the termination of pregnancies and unhindered access to them.

(3) Within 100 metres of the entrance area to the facilities in which terminations of pregnancy are performed, it is prohibited to engage, in a manner perceptible to a pregnant woman that may impair access to the facility, in any of the following:

1. deliberately making it more difficult for the pregnant woman to enter the facility by placing an obstruction in her way;
2. knowingly imposing an opinion on a pregnant woman, by speaking to her about her decision whether to continue her pregnancy;
3. harassing, intimidating or otherwise placing a pregnant woman under considerable pressure in a comparable manner in order to influence her decision as to whether to continue her pregnancy;
4. handing over, showing, playing or otherwise communicating to a pregnant woman, for her direct attention, content within the meaning of section 11 (3) of the German Criminal Code relating to pregnancy or termination of pregnancy, where said content:
   a) contains false statements of fact, or
   b) is clearly intended to provoke, in a pregnant woman, an immediate and substantial emotional reaction, particularly fear, disgust, shame or guilt.

(4) It is prohibited to deliberately obstruct the staff of facilities in which terminations of pregnancy are performed when they are providing information on or performing terminations of pregnancy.

(5) On behalf of the Federal Government, the German Medical Association keeps a list of doctors, hospitals and facilities that have notified it that they perform terminations of pregnancy under the conditions set out in section 218a (1)-(3) of the German Criminal Code. The

German Medical Association may process the personal details collected for this purpose. The list also contains details of the methods used to perform the terminations of pregnancy where this information has been provided. The German Medical Association updates this list monthly on the basis of the information it receives. It publishes it online and makes it available to the Federal Centre for Health Education, the Federal Office of Family Affairs and Civil Society Functions and the federal *Länder*.

Section 14

Information on termination of pregnancy

(1) The Federal Centre for Health Education publishes the list maintained by the German Medical Association under section 13 (5) together with additional information on terminations of pregnancy under the conditions set out in 218a (1)-(3) of the German Criminal Code.

(2) The nationwide central emergency telephone number referred to in section 1 (5) sentence 1, provides information on the data contained in the list referred to in section 13 (5).

(3) Facilities for the performance of terminations of pregnancy, hospitals and doctors may provide objective and occupation-related information on terminations of pregnancy to be performed under the conditions set out in section 218a (1)–(3) of the German Criminal Code.

Division 4
Federal Statistics on Terminations of Pregnancy

Section 15

Compilation as federal statistics

Federal statistics are compiled on terminations of pregnancy under the conditions set out in section 218a (1)–(3) of the German Criminal Code.

The statistics are compiled and processed by the Federal Statistical Office.

Section 16

Information to be compiled, reporting period and periodicity

(1) The survey is conducted for each calendar quarter and comprises the following information:

1. performance of terminations of pregnancy during the reporting period (including nil returns);
2. legal basis for the termination of pregnancies (counselling provision or on specified grounds);
3. the pregnant woman's marital status and age, the number of children born alive to her and the number of children living in her household;
4. the length of the terminated pregnancy;
5. the type of procedure and any complications observed;
6. the federal *Land* in which the pregnancy was terminated and the federal *Land* or foreign country in which the pregnant woman resides;
7. performance of the procedure in a medical practice or in hospital and, if in hospital,
8. the length of the hospital stay.

The pregnant woman's name must not be recorded.

(2) The Federal Statistical Office publishes the statistical results referred to in subsection (1)

1. quarterly, broken down by federal *Länder* and for Germany as a whole,
2. annually, broken down by districts and independent cities.

(3) The Federal Statistical Office publishes an annual analysis of the total number of medical practices and hospitals that report information referred to in subsection (1) sentence 1 (reporting units), broken down into size classes at federal *Land* and Federal Government levels. The size classes are determined on the basis of the number of terminations of pregnancy. In addition, the Federal Statistical Office may publish the number of reporting units at district and independent-city level.

Section 17

Ancillary criteria

(1) The ancillary criteria in the survey comprise:

1. The name and address of the facility under section 13 (1),
2. The telephone number of the contact person for any queries.

(2) For the purpose of publication under section 16 (2) no. 2 and subsection (3) sentence 3, the addresses referred to in subsection (1) no. 1 may be used to assign the facilities to districts and independent cities.

Section 18

Duty to provide information

(1) There is a duty to provide information for the survey. The owners of medical practices and the directors of hospitals in which terminations of pregnancy have been performed in the two years preceding the end of the quarter must report to the Federal Statistical Office, at the end of each quarter, the information referred to in section 16 (1) sentence 1 and in section 17 (1) no. 1 as well as nil returns.

(2) The provision of the information under section 17 (1) no. 2 is voluntary.

(3) To conduct the survey, the Federal Statistical Office must be sent on request:

1. by the medical associations in the federal *Länder*: the addresses of the facilities of doctors in which, to their knowledge, terminations of pregnancy have been or are to be performed;
2. by the competent health authorities in the respective federal *Länder*: the addresses of the hospitals and the addresses of the facilities of doctors in which, to their knowledge, terminations of pregnancy have been or are to be performed;
3. by the associations of statutory health insurance doctors: the addresses of the facilities of doctors participating in statutory health insurance care in which, to their knowledge, terminations of pregnancy have been or are to be performed;
4. by the hospital associations of the federal *Länder*: the addresses of hospitals in which, to their knowledge, terminations of pregnancy have been or are to be performed.

The highest competent authorities of the federal *Länder* must provide the Federal Statistical Office with the addresses, within their respective areas of responsibility, of the health authorities required to provide information under sentence 1 no. 2.

Division 5
Assistance for Women Undergoing Terminations of Pregnancy in Special Circumstances

Section 19

Entitled persons

(1) A woman is entitled to benefits under this section if she cannot reasonably be expected to meet the cost of terminating her pregnancy and she has her place of residence or habitual abode within the territorial scope of this Act. In respect of women entitled to benefits under the Asylum Seekers Benefits Act, section 10a (3) sentence 4 applies accordingly.

(2) A woman cannot be reasonably expected to meet the cost[3] within the meaning of subsection (1) if her available monthly income does not exceed 1,001 euros or equivalent (the income threshold) and she does not have any personal assets that can be liquidated at short notice or the use of such assets would cause her undue hardship. The income threshold is increased by 237 euros for each child the woman is obliged to maintain, provided the child is a minor and is part of her household or is predominantly maintained by her. Where the accommodation costs of the woman and the children, for whom she is entitled to the additional amount under sentence 2, exceed 294 euros, the income threshold is raised by the amount of the excess, up to a maximum of 294 euros.

(3) The requirements set out in subsection (2) are deemed to be met where:

1. the woman receives ongoing subsistence assistance under Book Twelve of the Social Code, benefits to secure subsistence under Book Two of the Social Code, financial assistance for vocational education and training under the provisions of the Federal Employment Agency on individual support for vocational education and training or on employment and vocational support for disabled persons, benefits under the Asylum Seekers Benefits Act or training assistance under the Federal Training Assistance Act or
2. the costs of accommodating the woman in an institution, a residential home or equivalent facility are borne by a social assistance or youth welfare provider.

3 The amounts are adjusted in line with the current pension value under the statutory pension insurance scheme on 1 July of each year and are published in the Federal Gazette *(Bundesanzeiger)*.

3. The amounts are adjusted in line with the current pension value under the statutory pension insurance scheme on 1 July of each year and are published in the Federal Gazette (Bundesanzeiger).

Section 20

Benefits

(1) The benefits comprise those referred to in section 24b (4) of Book Five of the Social Code that are covered by statutory health insurance solely in the case of a termination of pregnancy that is not unlawful.

(2) In the case of a termination of pregnancy that is not unlawful or that is performed under the conditions set out in section 218a (1) of the German Criminal Code, the benefits are provided in kind. Benefits under Book Five of the Social Code take precedence over benefits under this Division.

Section 21

Execution, responsibility and procedure

(1) The benefits are granted, on application, by the statutory health insurance fund with which the woman has statutory health insurance. If the woman is not insured with a statutory health insurance fund, she may choose a statutory health insurer at her place of residence or habitual abode.

(2) At the woman's request, the procedure is conducted in writing. Subject to satisfaction of the requirements under section 19, the health insurance fund must issue a notice that it will cover the costs. Facts must be substantiated.

(3) The woman entitled to benefits is free to choose among the doctors and facilities willing to perform the termination of pregnancy for the fee referred to in sentence 2. Doctors and facilities are entitled to the fee paid by the health insurance fund in respect of its members for the services under section 20 in the case of a termination of pregnancy that is not unlawful.

(4) For the performance of services under section 20, the doctor or the facility which issued the notice under subsection (2) sentence 2 invoices the health insurance fund. When submitting the invoice for payment, the doctor or facility must confirm that the termination of pregnancy was performed in a facility referred to in 13 (1) of this Act under the conditions set out in section 218a (1), (2) or (3) of the German Criminal Code.

(5) Throughout the entire procedure, the woman's right to privacy must be

respected with due consideration of the special circumstances of pregnancy. The agencies involved should cooperate and seek to ensure that their activities complement each other effectively.

Section 22

Reimbursement of costs

The federal Länder must reimburse statutory health insurance funds for the costs incurred by them under this Division. Further details, including the budgetary procedure and the allocation of responsibilities between authorities are determined by the federal *Länder*.

Section 23

Legal recourse

Public-law disputes concerning matters relating to this Division are decided by the social courts.

Section 24

Adjustment

The amounts referred to in section 19 (2) are adjusted by the percentage by which the current pension value is adjusted in the statutory pension insurance system; any amount that does not result in a whole number must be rounded up or down to the nearest euro. The Federal Ministry of Family Affairs, Senior Citizens, Women and Youth[4] publishes the adjusted amounts in the Federal Gazette.

Division 6
Confidential Birth

Section 25

Counselling on confidential birth

(1) A pregnant woman counselled under section 2 (4) who does not wish to reveal her identity must be informed about the option of confidential birth. Confidential birth means childbirth in which the pregnant woman does not reveal her identity. Instead, she provides the information set out in section 26 (2) sentence 2.

(2) The primary aim of counselling is to secure the pregnant woman proper medical care when giving birth and offer her assistance to enable her to opt for spending her life with her child. More particularly, counselling covers:

1. information about the steps involved in the procedure and the legal consequences of confidential birth;

4 Since 10 May 2025 Federal Ministry for Education, Family Affairs, Senior Citizens, Women and Youth

2. information about the rights of the child; in this context, the importance for the child's development of the child knowing their mother's and father's origins must be stressed;
3. information about the father's rights;
4. an explanation of the usual steps in and completion of an adoption procedure;
5. information on how a woman can assert her rights in relation to her child after a confidential birth by relinquishing her anonymity; and
6. information about the procedure under sections 31 and 32.

(3) The information referred to in subsection (2) sentence 2 nos. 2 and 3 is intended to encourage the pregnant woman to provide her child with as much information as possible about her origins and the reasons why she gave up her child.

(4) Counselling and support should be provided in cooperation with the adoption placement agency.

(5) If the woman decides against a confidential birth, she must be informed that she will continue to have access to anonymous counselling and assistance at all times.

Section 26

The confidential birth procedure

(1) If the pregnant woman wishes to have a confidential birth, she must choose:

1. a first name and surname for herself under which she acts throughout the confidential birth procedure (pseudonym), and
2. one or more female and one or more male first names for the child.

(2) The counselling centre must prepare a certificate of the child's parentage. To this end, it records the pregnant woman's first names and surname, date of birth and address, and checks these details against a valid identity card that is suitable for this confirmation.

(3) The certificate of parentage must be sealed in a tamper-proof envelope. The following must be recorded on the envelope:

1. the fact that it includes a certificate of parentage,
2. the pseudonym,
3. the child's place and date of birth, the name and
4. address of the maternity facility or of the person authorised to provide obstetric services booked under subsection (4) and
5. the address of the counselling centre.

(4) The counselling centre must book the pregnant woman, under her pseudonym, for delivery in a maternity facility or with a person authorised to provide obstetric services and indicate that the birth will be confidential. The pregnant woman is free to choose the facility or the person. When booking her in, the counselling centre must share the first names chosen for the child under subsection (1) no. 2.

(5) The counselling centre must give the following information to the youth welfare office responsible for the place of birth:

1. the pregnant woman's pseudonym,
2. the expected date of delivery, and
3. the facility or person authorised to provide obstetric services booked under subsection (4).

(6) The person in charge of the obstetric facility in which the pregnant woman has given birth must immediately inform the counselling centre referred to in subsection (4) sentence 1 of the child's date and place of birth.

The same applies in the case of a home birth for the person authorised to provide obstetric services.

(7) The registry office must inform the Federal Office of Family Affairs and Civil Society Functions about the child's officially registered name and the mother's pseudonym.

(8) The counselling centre must forward any messages from the woman to her child to the adoption placement agency for inclusion in the corresponding placement file. In the case of non-adopted children, messages must be forwarded to the Federal Office of Family Affairs and Civil Society Functions.

Section 27

Protocol for handling the certificate of parentage

(1) The counselling centre must send the envelope with the certificate of parentage to the Federal Office of Family Affairs and Civil Society Functions for safekeeping as soon as it learns of the child's birth.

(2) The Federal Office of Family Affairs and Civil Society Functions must record on the envelope containing the child's certificate of parentage the child's name notified to it by the registry office under section 26 (7).

Section 28

Counselling centres managing confidential births

(1) Under sections 3 and 8 (1), counselling centres may provide counselling on confidential birth if they can guarantee the proper conduct of the confidential birth procedure as stipulated in the provisions of this Division and have sufficient counselling staff with the appropriate personal and professional qualifications.

(2) In order to be able to close-to-home counselling on confidential birth, the counselling centres under sections 3 and 8 (1) call in a counselling professional under subsection (1).

Section 29

Counselling in obstetric facilities or in the case of home births

(1) The head of a maternity facility that admits a pregnant woman for delivery without establishing her identity must immediately inform a counselling centre under sections 3 and 8 (1) in the local catchment area about her admission. The same applies, in the case of a home birth, to a person authorised to provide obstetric services.

(2) The notified counselling centre must ensure that the pregnant woman is personally offered immediate counselling on the option of confidential birth and the procedure involved according to this Division by a counselling professional under section 28. The pregnant woman must not be pressurised into accepting counselling.

(3) The obligation under subsection (2) also applies where the woman has already given birth to her child.

Section 30

Counselling after the birth of the child

(1) The mother must also be offered counselling under section 2 (4) and section 25 (2) and (3) after the child is born. This also applies where no certificate of parentage has been issued.

(2) Where counselling is about taking back the child, the counselling centre should inform the mother about the assistance and benefits available to parents in the local catchment area. If the mother wishes to reclaim her child, the counselling centre should encourage her to accept help. The counselling centre must continue to offer the pregnant woman assistance in resolving her psychosocial conflicts.

Section 31

Child's right to access their certificate of parentage

(1) On reaching the age of 16, a child born confidentially has the right to access the certificate of parentage filed with the Federal Office of Family Affairs and Civil Society Functions or to request copies of it (right of access).

(2) From the time the child reaches the age of 15, the mother may, using her pseudonym pursuant to section 26 (1) no. 1, make a declaration to a counselling centre under sections 3 and 8 (1) setting out any interests or concerns that conflict with the child's right of access. In so doing, she must provide the information specified in section 26 (3) sentence 2 no. 3. The counselling centre must point out available assistance options to the mother and discuss with her possible measures to avert the risks she fears. It must inform the mother that the child can assert their right of access through the courts.

(3) If the mother adheres to her declaration pursuant to subsection (2), she must designate to the counselling centre a person or entity that, in the event of family court proceedings, will assert the mother's rights in their own name (procedural representative). The procedural representative must not disclose the mother's identity without her consent. The counselling centre must inform the mother that she is responsible for ensuring that this person or entity is willing to act as a procedural representative and can be reached by the family court. The counselling centre must immediately inform the Federal Office of Family Affairs and Civil Society Functions about the mother's declaration and the details she has provided concerning the person or entity.

(4) Where the mother has made a declaration referred to in subsection (2) sentence 1, and has designated a person or entity in accordance with subsection (3) sentence 1, the Federal Office of Family Affairs and Civil Society Functions must not grant the child access until family court proceedings under section 32 have been completed.

Section 32

Family court proceedings

(1) If the Federal Office of Family Affairs and Civil Society Functions denies the child access to their certificate of parentage under section 31 (4), the family court must, upon application by the child, decide on the latter's right of access. The family court must examine whether the biological mother's interest in continuing to keep her identity secret on account of the risks to life, limb, health, personal freedom or other interests deserving of

protection that she fears would result from disclosure, outweighs the child's interest in knowing their parentage. The family court in the district where the child has their habitual abode has exclusive jurisdiction. Where no German court has jurisdiction under sentence 3, Schöneberg local court in Berlin has exclusive jurisdiction.

(2) In these proceedings, the provisions of Book I of the Act on Proceedings in Family Matters and in Matters of Non-contentious Litigation *(Erstes Buch des Gesetzes über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit – FamFG)* apply accordingly, unless otherwise provided below.

(3) The parties to the proceedings are:
1. the child,
2. the Federal Office of Family Affairs and Civil Society Functions,
3. the procedural representative designated in section 31 (3) sentence 1.

The court may hear the mother in person. If it does so, the hearing must take place in the absence of the other parties involved. The other parties must be informed about the outcome of the hearing while safeguarding the mother's anonymity. The family court's order only takes effect when it has become final.

The decision is binding on the mother, whether in her favour or against her. No costs may be charged in these proceedings. Section 174 of the Act on Proceedings in Family Matters and Non-contentious Matters applies accordingly.

(4) If neither the procedural representative nor the mother makes representations in the proceedings within a period specified by the court, it is presumed that the mother has no interests deserving of protection under subsection (1) sentence 2.

(5) If the child's application is dismissed, the child may reapply to the family court no earlier than three years after the decision has become final.

Section 33

Documentation and reporting duties

(1) The counselling centre must prepare a separate record for each counselling session using the pregnant woman's pseudonym, to document more specifically:
1. the notifications under section 26 (4) and (5);
2. the proper recording of the information under section 26 (2), and the dispatch of the certificate of parentage under section 27 (1) and
3. the preparation and dispatch of a message under section 26 (8).

4. The pregnant woman's anonymity must be safeguarded.

(2) On the basis of the documentation, the counselling centres must set out annually, in a written report, the experience gained with confidential births. The annual report must be forwarded to the Federal Office of Family Affairs and Civil Society Functions via the competent *Land* authority.

Section 34

Coverage of costs

(1) The Federal Government must cover the costs incurred in connection with the birth and with antenatal and postnatal care. The costs must be covered in accordance with the amounts reimbursed for pregnancy and maternity-related services under the statutory health insurance system.

(2) The operator of the facility in which obstetric care was provided, the person authorised to provide obstetric care who provided such care and any other service providers involved may charge these costs directly to the Federal Government.

(3) If, after delivery, the mother supplies the information required to register the birth, the Federal Government may recover the costs covered under subsection (1) from the health insurer.

(4) The functions under subsections (2) and (3) are assigned to the Federal Office of Family Affairs and Civil Society Functions.

(5) In a case falling under subsection (3), the registry office must provide the Federal Office of Family Affairs and Civil Society Functions with the mother's name, address and pseudonym.

Division 7
Provisions on Administrative Fines

Section 35 Provisions on Administrative Fines

(1) A person commits an administrative offence if, intentionally and in contravention of section 8 (2) no. 1 or section 13 (3) no. 1, they make it more difficult to enter or leave a counselling centre or a facility referred to in those provisions.

(2) A person commits an administrative offence if they knowingly:

1. in contravention of section 8 (2) no. 2 or section 13 (3) no. 2, impose an opinion on a pregnant woman or,
2. in contravention of section 8 (3) or section 13 (4), obstruct staff.

(3) A person commits an administrative offence if they,

1. in contravention of section 2a (1) sentence 1 or subsection (2) sentence 1, fail to counsel a pregnant woman or counsel her incorrectly, incompletely or not in a timely manner;
2. in contravention of section 2a (2) sentence 2, make a written determination;
3. in contravention of section 8 (2) no. 3 or section 13 (3) no. 3, exert pressure on a pregnant woman;
4. in contravention of section 8 (2) no. 4 or section 13 (3) no. 4, pass on content mentioned there;
5. in contravention of section 13 (1), perform a termination of pregnancy; or
6. in contravention of section 18 (1) sentence 2, fail to provide information, or provide it incorrectly, incompletely or not in a timely manner.

(4) The administrative offence may be punishable with a fine of up to five thousand euros.

Division 8
Closing Provision

Section 36
Restriction of a basic right

Sections 8 and 13 restrict the basic right to freedom of assembly (Article 8 of the Basic Law [*Grundgesetz – GG*]).

Addresses

Pregnancy conflict counselling

Arbeiterwohlfahrt (AWO)
Bundesverband e.V.
Blücherstraße 62/63
10961 Berlin
Tel.: +49 30 263 090
Internet: www.awo.org

Deutsches Rotes Kreuz (DRK)
Generalsekretariat
Carstennstr. 58
12205 Berlin
Tel.: +49 30 854 040
Internet: www.drk.de

Diakonie Deutschland – Evangelischer Bundesverband
Evangelisches Werk für Diakonie und Entwicklung e.V.
Caroline-Michaelis-Straße 1
10115 Berlin
Tel.: +49 30 652 110
Email: diakonie@diakonie.de
Internet: www.diakonie.de

donum vitae Bundesverband e.V.
Thomas-Mann-Straße 4
53111 Bonn
Tel.: +49 228 386 7343
Internet: www.donumvitae.org

Deutscher Paritätischer Wohlfahrtsverband (DPWV) Gesamtverband e.V.
Oranienburger Straße 13–14
10178 Berlin
Tel.: +49 30 246 360
Internet: www.der-paritaetische.de, www.paritaet.org

pro familia Bundesverband e.V.
Mainzer Landstraße 250–254
60596 Frankfurt am Main
Tel.: +49 69 2695 7790
Internet: www.profamilia.de

General pregnancy counselling

See the addresses under Pregnancy Conflict Counselling and also the following:

Deutscher Caritasverband e.V.
Bundeszentrale
Karlstraße 40
79104 Freiburg
Tel.: +49 761 2000
Internet: www.caritas.de

Sozialdienst katholischer Frauen (SkF)
Gesamtverein e.V.
Agnes-Neuhaus- Straße 5
44135 Dortmund
Tel.: +49 231 55 702 60
Internet: www.skf-zentrale.de

A directory of counselling centres in the individual federal *Länder* is available at www.familienplanung.de.

Publications and ordering information

If you would like to find out more about the benefits and assistance available to mothers and fathers, you can order or download the following publications free of charge:

Alleinerziehend
Tipps und Informationen
(Single parents – Tips and information, Federal Association of Single Mothers and Fathers)
(Ed. Bundesverband der alleinerziehenden Mütter und Väter e.V.)

Bundesstiftung Mutter und Kind
Informationen für schwangere Frauen in einer Notlage
(Federal Foundation "Mother and Child" – Information for pregnant women in an emergency situation)

Hilfe und Unterstützung in der Schwangerschaft
(Assistance and support during pregnancy)

Das Kindschaftsrecht
(Law of Parent and Child)
(Ed. Bundesministerium der Justiz)

Der Unterhaltsvorschuss
Eine Hilfe für Alleinerziehende (Child maintenance advances — assistance for single parents)

Elterngeld, ElterngeldPlus und Elternzeit
Das Bundeselterngeld- und Elternzeitgesetz (Parental allowance, parental allowance plus and parental leave – Act on Parental Benefit and Parental Leave)

Merkblatt Kindergeld
(Brochure on child benefit)
(Ed. Bundesagentur für Arbeit)

Merkblatt Kinderzuschlag
(Brochure on child supplement
(Ed. Bundesagentur für Arbeit)

Mutterschutzgesetz
Leitfaden zum Mutterschutz
(Maternity Protection Act – A guide to maternity protection)

Die vertrauliche Geburt
(The confidential birth)
Informationen über das Gesetz zum Ausbau der Hilfen für Schwangere und zur Regelung der vertraulichen Geburt einschließlich der gesetzlichen Regelungen im Einzelnen (Information on the Act Extending Assistance for Pregnant Women and Regulating Confidential Birth including the legal provisions in detail)

Starke-Familien-Checkheft
Familienleistungen auf einen Blick
(Strong families checklist, family services at a glance)

KiZ – The child supplement
Information brochure containing advice for low-income families, available from:
Publikationsversand der Bundesregierung
PO Box 48 10 09
18132 Rostock
Tel.: +49 30 18 272-2721
Fax: +49 30 18 102-722721
Email: publikationen@bundesregierung.de
Internet: www.bmbfsfj.bund.de

Wohngeld Plus – Sorgenfreier wohnen
(Housing benefit plus – living less anxiously)
Available from: Bundesministerium für Wohnen, Stadtentwicklung und Bauwesen
Krausenstraße 17–18
10117 Berlin
Tel.: +49 30 18 300-3060
Fax: +49 30 18 300-1942
Email: buergerinfo@bmwsb.bund.de

If you are looking for information on pregnancy, childbirth and parenting, you can order or download the following free publications of the Federal Centre for Health Education (BZgA):

Besondere Umstände. Informationsmaterial für Schwangere nach einem auffälligen Befund in der Pränataldiagnostik (Special circumstances. Information material for pregnant women with abnormal prenatal diagnostic test results)

Brochure to be handed out by gynaecological specialists to pregnant women in accordance with section 2a (1) of the Act on Pregnancies in Conflict Situations
Order no.: 13450002

Prenatal diagnostic testing
Beratung, Methoden und Hilfen (Faltblatt)
Counselling, methods and assistance (brochure)
Order no.: 13625100

Rundum
Schwangerschaft und Geburt (All about pregnancy and childbirth), Order no.: 13500000

Ich bin dabei!
Vater werden (Count me in – Becoming a father)
Order no.: 13510000

Mann wird Vater
Informationen für werdende Väter zur Geburt (Becoming a father: Information about childbirth for expectant fathers)
Order no.: 13643000

Postcard www.familienplanung.de
Order no.: 13490014

Sichergehn
Verhütung für alle
(On the safe side – Contraception for everyone), order no.: 13060000

Das Baby
Informationen für Eltern über das erste Lebensjahr (Babies – Information on the first year of parenthood)
Order no.: 11030000
Available from the Bundesinstitut für Öffentliche Gesundheit
50819 Cologne
Fax: +49 221 899 2257
Email: bestellung@bioeg.de or online at https://shop.bioeg.de/

The full wording of the legal texts can be accessed at www.bmbfsfj.bund.de.

Internet links
www.bmbfsfj.bund.de
www.hilfetelefon-schwangere.de
www.familienplanung.de
www.familienwegweiser.de
www.bundesstiftung-mutter-und-kind.de

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