

REPUBLIC OF KOREA. Mother-Child Health Act of 10 May 1986. (Current Laws of the Republic of Korea, Release No. 16, 1990, pp. 3456[1]-[7].) [The sterilization provisions of this Act have been amended]

Article 1 (Purpose) The purpose of this Act is to contribute to the improvement of the national health by protecting the maternal life and health and striving for the delivery and bringing-up of sound children.

Article 2 (Definition) For the purpose of this Act,

1. the term "pregnant, parturient and nursing women" means women who are pregnant or for whom it has not yet passed six months since their delivery;
2. the term "infants" means those for whom it has not yet passed six years since their birth;
3. the term "newborn baby" means an infant for whom it has not yet passed twenty-eight days since his birth;
4. the term "sterile operation" means an operation making one unable to generate without removal of the genital gland;
5. the term "medicine administration for contraception" means any sterile operation and administration of medicine to prevent a conception for a specified period or longer by inserting any contraceptive pill or appliance in the human body;
6. the term "induced abortion operation" means an operation to draw off artificially an embryo and things attached to it out of the mother's body at the time the embryo is unable to maintain its life outside the mother's body;
7. the term "mother-child health services" means services to have the pregnant, parturient and nursing women or infants maintain their physical and mental health by giving them any technical medical services;

8. the term "family planning services" means services to carry out any technical medical services, enlightenment or education on the conception control for the purpose of improving the health of family and home welfare; and

9. the term "mother-child health personnel" means those who have obtained the licenses for doctor, midwife and nurse or are qualified for the assistant nurse, and who are engaged in the mother-child health services and family planning services.

Article 3 (Responsibility of State and Local Governments) (1) The State and local governments shall take measures necessary for maintaining and improving the health of mothers and infants.

(2) The State and local governments shall make efforts to contribute to the improvement of the national health by considering policies of the mother-child health services and family planning services.

Article 4 (Obligation of Mother, etc.) (1) Mothers shall make efforts to control their health with right understanding of, and interest in their health in the pregnancy, delivery, nursing, etc.

(2) The persons in parental authority to infants, guardians of infants and other persons protecting infants (hereinafter referred to as "protectors") shall make positive efforts to maintain and improve the health of infants with right understanding of the childcare.

Article 5 (Establishment and Coordination of Service Schedule) (1) The Minister of Health and Social Affairs shall synthesize and coordinate various measures and policies concerning the mother-child health services and family planning services, and establish a basic plan as to such services, under the conditions as prescribed by the Presidential Decree.

(2) The heads of the related central administrative agencies and local governments shall make and implement detailed program necessary for carrying out the basic plan as referred to in Paragraph (1).

Article 6 (Mother-Child Health Council) (1) In order to deliberate important matters on the mother-child health services and family planning services in compliance with a request for advice from the

Minister of Health and Social Affairs, the Mother-Child Health Council shall be established in the Ministry of Health and Social Affairs.

(2) Necessary matters related to the composition and operation of the Mother-Child Health Council shall be determined by the Presidential Decree.

Article 7 (Establishment of Mother-Child Health Organization) (1) The State and local governments may establish and operate a mother-child health organization to take charge of the following matters on the mother-child health services and family planning services. In this case, if a local government sets up the mother-child health organization, it shall, in principle, be set up in the public health center established by the local government:

1. Matter concerning the antenatal, postpartum and childbirth cares and emergency measures for pregnant, parturient and nursing women;
2. Matters concerning the health care, vaccination, etc. of infants;
3. Matters concerning the medicine administration for contraception;
4. Matters concerning the gynecological diseases and prevention of related diseases;
5. Matters concerning the prevention of generation and the health care of mental and physical handicapped children; and
6. Matters concerning the guidance, education, study, public relations, statistics management, etc. pertaining to the health.

(2) Matters necessary for the establishment standards and operation of the mother-child health organization as referred to in Paragraph (1) shall be determined by the Presidential Decree.

(3) The State may carry out matters as referred to in Subparagraphs of Paragraph (1) by entrusting it to a medical or nonprofit corporation as prescribed by the Presidential Decree.

Article 8 (Report, etc. of Pregnant, Parturient and Nursing Woman) (1) If a pregnant, parturient and nursing woman desires to be protected as a pregnant, parturient and nursing woman under this Act, she shall report in person or through the intermediary of her protector the fact of her pregnancy or delivery to the public health center or medical institution (hereinafter referred to as "health institution") under the conditions as prescribed by the Ordinance of the Ministry of Health and Social Affairs.

(2) The head of the health institution shall, upon receiving reports as referred to in Paragraph (1), put them together, and report it to the mayor of the Seoul Special City or direct control city or the head of the Shi/Kun (hereinafter referred to as "head of the Shi/Kun") under the conditions as prescribed by the Ordinance of the Ministry of Health and Social Affairs.

(3) If a pregnant, parturient and nursing woman dies or has a stillbirth, or a newborn baby dies, in the health institution, the head of the health institution shall report it to the head of the Shi/Kun under the conditions as prescribed by the Ordinance of the Ministry of Health and Social Affairs.

Article 9 (Issuance of Mother-Child Health Pocketbook) (1) The head of the Shi/Kun shall issue a mother-child health pocket book to a pregnant, parturient and nursing woman or infant reported under Article 8(1).

(2) Matters necessary for the issue procedure, etc. of the mother-child health pocketbook as referred to in Paragraph (1) shall be determined by the Ordinance of the Ministry of Health and Social Affairs.

Article 10 (Health Care, etc. of Pregnant, Parturient and Nursing Women and Infants) (1) The head of the Shi/Kun shall take measures necessary for the health care of the pregnant, parturient and nursing women and infants, such as conducting periodically a health check and vaccination under the conditions as prescribed by the Presidential Decree, having the mother-child health personnel call at their homes to conduct a health diagnosis and treatment, and so on.

(2) The head of the Shi/Kun may render the following medical assistance to those of the pregnant, parturient and nursing women and infants, who stand in need of any hospital treatment:

1. Diagnosis;

2. Provision of medicine or materials for medical treatment;
3. Treatment, operation and other treatment;
4. Taking in medical facilities;
5. Nursing; and
6. Transfer.

Article 11 (Measures for Safe Delivery) If the head of the Shi/Kun deems that it is required to send a pregnant, parturient and nursing woman to a medical institution for her safe delivery and health, he shall do so, and if she desires to deliver a baby in her home, the head of the Shi/Kun shall have any mother-child health personnel help with the delivery.

Article 12 (Extension of Medicine Administration for Contraception and Pills) The Minister of Health and Social Affairs or the head of the Shi/Kun may conduct a medicine administration for contraception or spread contraceptive pills to those who desire it, under the conditions as prescribed by the Ordinance of the Ministry of Health and Social Affairs.

Article 13 (Person qualified for Medicine Administration for Contraception) No person other than the doctor or midwife or nurse who has completed the regular educational courses as prescribed by the Ordinance of the Ministry of Health and Social Affairs, may perform a medicine administration for contraception. In this case, the service of medicine administration for contraception of the midwife or nurse shall be limited to the medicine administration service included in the scope recognized by the Minister of Health and Social Affairs.

Article 14 (Permitted Limit of Induced Abortion Operation) (1) The doctor may conduct an induced abortion operation with the consent of the woman herself and her spouse (including a person having a de facto marital relation; hereinafter the same shall apply) only in the following cases:

1. Where she or her spouse suffers from any eugenic or genetic mental handicap or physical disease as prescribed by the Presidential Decree;
2. Where she or her spouse suffers from any infectious disease as prescribed by the Presidential Decree;

3. Where she is impregnated by a rape or quasi-rape;
4. Where the pregnancy is taken place between blood relatives or matrimonial relatives who are unable to marry legally; and
5. Where the maintenance of the pregnancy injures or might injure the health of the mother's body for the health or medical reason.

(2) In the case as referred to in Paragraph (1), if it is impossible to obtain the consent of the spouse due to his death or disappearance, missing or by other inevitable reason, the operation may be performed only with her consent.

(3) In the case as referred to in Paragraph (1), if the woman or her spouse is unable to manifest her or his intention by any mental or physical trouble, the consent of the person in parental authority or guardian may be substituted for that as referred to in Paragraph (1), and if there is no person in parental authority or guardian, the consent of a person who is liable for support may be substituted for such consent.

Article 15 (Procedure for Sterile Operation and Institution of Lawsuit) (1) If a doctor ascertains as a result of a diagnosis of a patient that she is affected by a disease as prescribed by the Presidential Decree, and if he deems it required for the public interest to conduct a sterile operation for the purpose of preventing the heredity or infection of such disease, he shall report to the Minister of Health and Social Affairs that he finds out a person who is the object of the sterile operation, under the conditions as prescribed by the Presidential Decree.

(2) The Minister of Health and Social Affairs may, upon receiving a report as referred to in Paragraph (1), designate a doctor and order the patient to undergo the sterile operation under the conditions as prescribed by the Presidential Decree.

(3) If a person who received the order of the Minister of Health and Social Affairs under Paragraph (2), is dissatisfied with the order, he may request an administrative appeal claiming a cancellation of the order within fourteen days after he received the order.

(4) In the event that an administrative appeal is requested, or an administrative litigation is instituted, the effect of the order as referred to in Paragraph (2) shall be suspended until the ruling or decision becomes definite.

Article 16 (Association) (1) In order to carry out services, such as research, study, education, public relations, etc. on the mother-child health services and family planning services, the Korea Family Planning Association (hereinafter referred to as "Association") shall be established.

(2) Those who are eligible for membership of the Association, shall be those who approve the object of establishment and the services of the Association.

(3) The association shall be a juristic person.

(4) Matters to be included in the articles of association and those necessary for services of the Association shall be determined by the Presidential Decree.

(5) Matters concerning the Association, which are not prescribed in this Act, shall be subject to the provisions of the Civil Code concerning the corporate juristic person.

Article 17 (Cooperation) The Minister of Health and Social Affairs may request any cooperation to the Association with respect to matters necessary for carrying out the mother-child health services or family planning services, and the Association shall comply with it unless there is any special reason.

Article 18 (Supervision) If the Association performs services other than those as prescribed by the articles of association, or fails to comply with the request for cooperation as prescribed in Article 17 without any justifiable reason, the Minister of Health and Social Affairs may order to correct it or to alter the articles of association.

Article 19 (Fund) (1) In order to apply to the funds needed for the projects and operation of the Association, the Association may establish the Fund.

(2) The Fund as referred to in Paragraph (1) shall be composed of the contribution of the Government and those other than the Government.

(3) Matters other than those as prescribed in this Act, which are necessary for the operation and management of the Fund and the grant of contribution, shall be determined by the Presidential Decree.

Article 20 (Prohibition of Use of Similar Title) Any person who is not the Association as prescribed by this Act, shall not use the title of the Korea Family Planning Association and other similar titles.

Article 21 (Assistance of Expenses) (1) The State may assist the following expenses in the limit of the budget:

1. Less than two-thirds of the expenses and incidental expenses needed for the establishment of a mother-child health organization (excluding the case where the State establishes it; hereinafter the same shall apply);
2. Less than a half of the operational expenses of a mother-child health organization;
3. Expenses needed for carrying out the entrusted services of the person who is entrusted with such services under Article 7(3);
4. Expenses needed for health check, etc. as prescribed in Article 10(1) for a person incapable of bearing such burden;
5. Less than a half of the expenses for the midwifery service as prescribed in Article 11 for a person incapable of bearing such burden; and
6. Expenses needed for conducting a sterile operation of the medicine administration for contraceptions as prescribed in Article 12 for a person incapable of bearing such burden, and those needed for a sterile operation under Article 15.

(2) The local governments shall assist the portion other than portion which the State assists, of expenses as referred to in Subparagraphs 4 to 6 of Paragraph (1), in the limit of the budget.

Article 22 (Free Loan of National Property) If it is deemed necessary, the State may lend gratuitously any national property to the Association.

Article 23 (Collection of Expenses) (1) The head of the Shi/Kun may collect the expenses needed for measures taken under Articles 11 and 12 from the persons who are subject to such measures, except in case of those incapable of bearing the burden.

(2) Matters necessary for the collection of the expenses as referred to in Paragraph (1) shall be determined by the Ordinance of the Ministry of Health and Social Affairs.

Article 24 (Prohibition of Divulgence of Secret) Except as otherwise provided by this Act or other laws and regulations, no person who is engaged in the mother-child health services and family planning services, shall divulge or disclose any secret of other persons, which he has learned in the course of carrying out his duties.

Article 25 (Delegation of Authority) The Minister of Health and Social Affairs may delegate a part of his authority as vested under this Act to the mayor of the Seoul Special City or direct control city, or provincial governor under the conditions as prescribed by the Presidential Decree.

Article 26 (Penal Provisions) Any person who violates the provisions of Articles 13 and 24, shall be punished by imprisonment for not more than one year, or a fine not exceeding one million Won.

Article 27 (Fine for Negligence) (1) The head of a medical institution who violates the provisions of Article 8(3) and a person who violates the provisions of Article 20 shall be punished by a fine for negligence not exceeding five hundred thousand Won.

(2) The fine for negligence as referred to in Paragraph (1) shall be imposed and collected by the Minister of Health and Social Affairs against a person who violates the provisions of Article 20, and by the head of the Shi/Kun against a person who violates the provisions of Article 8(3), under the conditions as prescribed by the Presidential Decree.

(3) Any person who is dissatisfied with the measure of fine for negligence as referred to in Paragraph (2), may raise an objection to the Minister of Health and Social Affairs or the head of the Shi/Kun within thirty days after he is informed of such measure.

(4) If a person who is submitted to the measure of fine for negligence under Paragraph (2), has raised an objection under Paragraph (3), the Minister of Health and Social Affairs or the head of the Shi/Kun shall notify it without delay to the competent court, which shall, upon receiving the notification, bring the case of the fine for negligence to a trial under the Non-Contentious Case Procedure Act.

(5) If no objection is raised and no fine for negligence is paid within the period as referred to in Paragraph (3), it shall be collected pursuant to the examples of the disposition of national or local taxes in arrears.

Article 28 (Exclusion of Application of Penal Code) Any person who undergoes or conducts an induced abortion operation pursuant to the provisions of this Act, shall not be punished regardless of the provisions of Articles 269(1), (2) and 270(1) of the Penal Code.

Article 29 (Exclusion of Application of Medical Treatment Act) With respect to any midwifery act performed under Article 11 by a nurse or assistant nurse of the mother-child health personnel as prescribed by this Act, the provisions of Article 25(1) (Prohibition of Unlicensed Medical Care Service, etc.) and Subparagraph 3 of Article 66 (Penal Provisions) of the Medical Treatment Act shall not be applicable. This provision shall also be applicable in case of a midwife or nurse who administers medicine administration for contraception under Article 13.

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