

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 21,167, 19 ta' Diċembru, 2023  
Taqsimha C

## Nru 86

19. 12. 2023

### MALTA

#### KAMRA TAD-DEPUTATI

#### HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Julia Farrugia Portelli, M.P., Ministru għall-Inkluzjoni, il-Volontarjat u d-Drittijiet tal-Konsumatur, u moqri għall-Ewwel darba fis-Seduta tat-18 ta' Diċembru 2023.

A BILL introduced by the Honourable Julia Farrugia Portelli, M.P., Minister for Inclusion, Voluntary Organisations and Consumer Rights, and read the First time at the Sitting of the 18th December 2023.

**ATT sabiex jemenda l-Kodiċi Kriminali, Kap. 9.**

**AN ACT to amend the Criminal Code, Cap. 9.**

RAYMOND SCICLUNA  
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA  
Clerk of the House of Representatives



**ABBOZZ TA' LIĠI**  
**msejjah**

*ATT sabiex jemenda l-Kodiċi Kriminali, Kap. 9.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

**1.** It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2023 li jemenda l-Kodiċi Kriminali (Emenda Nru 11), u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor.  
Kap. 9.

**2.** L-artikolu 251F tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 251F tal-Kodiċi.

"Sterilizzazzjoni furzata.

251F. (1) Kull min permezz tal-kirurgija jneħhi jew jiddiżabilita l-organi riproduttivi ta' persuna minorenni, jew ta' persuna adulta mingħajr ma jkun hemm il-kunsens liberu u infurmat ta' dik il-persuna adulta, b'dan iwassal għal sterilizzazzjoni, għandu jkun hati ta' sterilizzazzjoni furzata u għandu jeħel, kemm-il darba l-għemil ma jkunx jikkostitwixxi reat aktar gravi taħt kwalunkwe liġi oħra jew taħt kwalunkwe dispożizzjoni oħra ta' dan il-Kodiċi, meta jinsab hati, prigunerija għal żmien minn ħames (5) snin sa disa' (9) snin, bil-possibbiltà taż-żieda ta' multa ta' mhux inqas minn tmint elef euro (€8,000) u mhux aktar minn għoxrin elf euro (€20,000).

(2) Għall-iskopijiet ta' dan l-artikolu, "kunsens liberu u infurmat" għandu:

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(i) jfisser kunsens li jirrifletti r-rieda u l-preferenzi ta' persuna adulta, liberament mogħti direttament minn tali persuna adulta fir-rigward ta' proċedura kirurġika illi l-persuna adulta tista' tghaddi minnha, li tista' twassal għall-isterilizzazzjoni; u

(ii) jingħata wara li dik il-persuna adulta tkun ingħatat informazzjoni minn qabel, fir-rigward tal-għan u n-natura tal-proċedura, kif ukoll tal-konsegwenzi, ir-riskji u l-għażliet alternattivi tagħha għalihom, b'mod li jkun xieraq, aċċessibbli u faċli sabiex tinftiehem minn dik il-persuna adulta, inkluż, kif meħtieġ, permezz ta' metodi mhux konvenzjonali ta' komunikazzjoni u l-aċċess għall-appoġġ indipendenti minn partijiet terzi; u

(iii) jkun jista' jiġi rtirat fi kwalunkwe waqt sa qabel il-proċedura wara li jkun ingħata inizjalment, fejn tali possibbiltà għandha tiġi kkomunikata wkoll bl-istess mod flimkien mal-informazzjoni hawn fuq indikata:

Iżda jekk persuna adulta ma tkunx tista' tagħti kunsens liberu u infurmat skont dan l-artikolu, sew minhabba kawża temporanja jew waħda aktar fit-tul, l-ebda persuna oħra ma għandha tkun tista' tissostitwixxi l-kunsens liberu u infurmat ta' tali persuna adulta għall-finijiet ta' dan l-artikolu:

Iżda wkoll illi kwalunkwe proċedura kirurġika mwettqa fuq persuna minorenni, u li twassal għal sterilizzazzjoni, għandha titqies bħala sterilizzazzjoni furzata għall-finijiet ta' dan l-artikolu, ħlief meta tali proċedura tkun koperta mill-eċċezzjoni fil-proviso li jmiss, u l-ebda persuna oħra, inkluż ġenitur jew gwardjan legali, ma għandha tkun tista' tipprovdi kunsens għal tali proċedura f'isem il-persuna minorenni, ħlief meta tkun applikabbli l-eċċezzjoni msemmija:

Iżda wkoll ma jkun twettaq l-ebda reat taħt dan l-artikolu meta l-isterilizzazzjoni tirriżulta bħala konsegwenza ta' intervent mediku, li:

(i) ma jitwettaqx bl-iskop li tinkiseb sterilizzazzjoni furzata skont dan l-artikolu; u

(ii) jkun xort' oħra ġie meqjus medikament meħtieġ minn professjonist mediku; u

(iii) jsewgi l-prattika medika stabbilita dwar l-għoti tal-kunsens infurmat mill-pazjent skont leġiżlazzjoni oħra.

(3) Kull min ikun kompliċi f'reat li jirreferi għalih is-subartikolu (1), billi jgħin, jassisti jew jikkawża l-isterilizzazzjoni furzata fuq kwalunke persuna minorenni jew persuna adulta għandu jeħel, kemm-il darba l-fatt ma jkunx jikkostitwixxi reat aktar gravi taħt kwalunkwe liġi oħra jew taħt xi dispożizzjoni oħra ta' dan il-Kodiċi, meta jinsab ħati, il-pieni stabbiliti fis-subartikoli (1) u (4) ta' dan l-artikolu.

(4) Il-piena stabbilita għal kwalunkwe wieħed mir-reati li jirreferu għalihom is-subartikoli preċedenti għandha tiżdied bi grad wieħed (1), meta l-kommissjoni ta' tali reati tkun tinvolvi wkoll l-użu tal-forza, qerq, frodi, tixħim, għemil qarrieqi, sfurzar jew theddid."

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### **Għanijiet u Raġunijiet**

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jiġi emendat il-Kodiċi Kriminali sabiex tiġi stabbilita projbizzjoni fuq l-isterilizzazzjoni furzata f'kull sitwazzjoni, ħlief meta jkun hemm riskji gravi għall-ħajja jew għas-saħħa fiżika tal-persuna, u biex jiġu speċifikati reati differenti u pjeni relatati, filwaqt li jiġu kjarifikati materji relatati mal-kunsens, f'dan ir-rigward.

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**A BILL  
entitled**

*AN ACT to amend the Criminal Code, Cap. 9.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title.

**1.** The short title of this Act is the Criminal Code (Amendment No. 11) Act, 2023 and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Cap. 9.

Substitution of article 251F of the Criminal Code.

**2.** Article 251F of the Code shall be substituted by the following new article:

"Enforced sterilization.

251F. (1) Whosoever surgically removes or disables a minor person's reproductive organs, or an adult person's reproductive organs without that adult person's free and informed consent, leading to sterilization, shall be guilty of enforced sterilization and shall, unless the fact constitutes a more serious offence under any other law or any other provision of this Code, be liable on conviction to imprisonment for a term from five (5) to nine (9) years, with the possibility of a fine (*multa*) of not less than eight thousand euro (€8,000) and not exceeding twenty thousand euro (€20,000).

(2) For the purposes of this article, "free and informed consent" shall:

(i) mean consent reflecting the will and preferences of an adult person, freely given directly by said adult person, in respect of a surgical procedure the adult person might undergo, which may lead to sterilization; and

(ii) be given after said adult person would have been provided with prior information, in respect of the purpose and nature of the procedure, as well as of its consequences, risks and alternative options thereto, in a manner that is appropriate, accessible and easy to understand for that adult person, including, as necessary, through non-conventional methods of communication and access to independent support from third parties; and

(iii) be able to be withdrawn at any moment prior to the procedure following its initially having been given, with said possibility having been likewise communicated to the adult person alongside the information indicated above:

Provided that if an adult person is unable to give free and informed consent in accordance with this article, whether due to a cause that is either temporary or long-term, no other person shall be able to substitute said adult person's free and informed consent for the purposes of this article:

Provided further that any surgical procedure performed on a minor person, and that leads to sterilization, shall be deemed to be enforced sterilization for the purposes of this article, except when said procedure is covered by the exception in the next proviso, and no other person, including a parent or legal guardian, shall be able to provide consent for such a procedure in the name of the minor person, other than when the exception mentioned would be applicable:

Provided further that no offence under this article shall be committed when sterilization shall result as a consequence of a medical intervention, which:

(i) is not performed with the purpose of achieving enforced sterilization in terms of this article; and

(ii) would have been otherwise deemed medically necessary by a medical professional; and

(iii) follows established medical practice with regard to the granting of informed consent by the patient in terms of other legislation.

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(3) Whosoever is an accomplice to the offence referred to in sub-article (1), by aiding, abetting or procuring the enforced sterilization of any minor person or adult person shall, unless the act constitutes a more serious offence under any other law or any other provision of this Code, be liable on conviction to the punishments laid down in sub-articles (1) and (4) of this article.

(4) The punishment prescribed for any of the offences referred to in the preceding sub-articles shall be increased by one (1) degree, when the commission of such crimes involves also the use of force, deceit, fraud, bribery, false pretences, coercion or threats."

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### **Objects and Reasons**

The objects of this Bill are to amend the Criminal Code to establish a prohibition on enforced sterilization in all situations, except where there exist grave risks to the life or physical health of a person, and to specify different offences and related penalties, while clarifying matters relating to consent, in this respect.