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Recommended Citation
Vera Skalts and Magna Norgaard, Abortion Legislation in Denmark, 17 W. Res. L. Rev. 498 (1965)
Available at: https://scholarlycommons.law.case.edu/caselrev/vol17/iss2/10
Erratum
PAGE 500, FOOTNOTE 13, LINE 3: change "Norgaard" to "Nørgaard." PAGE 500, FOOTNOTE 13, LINE 4: change "LAEGER" to "LAJGER."
Abortion Legislation in Denmark

Vera Skalts and Magna Norgaard

Abortion legislation in Denmark has changed remarkably since the beginning of the twentieth century. This legislation reflects the evolution of the attitude now prevailing among the Danish people that abortion is not criminal as far as the woman is concerned. The legislation emphasizes programs of help and guidance for the pregnant woman and establishes the Mothers Aid Centers for effectuating the remedial program. In addition, there are provisions legalizing abortion in certain cases. Director Skalts and her co-author, Magna Nørgaard, trace the legislation through its developmental stages and set forth studies which demonstrate the effectiveness of the legislation. They conclude that only through open discussion and through programs of guidance will the abortion problem be solved.

In Denmark, termination of pregnancy has been the subject of special legislation since 1937. Before that time legislation concerning this question had been limited to provisions in the Criminal Code which provided that termination of pregnancy was punishable both for the woman and for those who assisted her. As far as the woman was concerned, even this legal attitude was considerably milder and more liberal than that during the last centuries. This is reflected by the trend in the legislation under which sentences ranged from capital punishment in the seventeenth century to imprisonment up to two years (a sentence which under special circumstances could be remitted and, as time passed, was very often remitted) under the Criminal Code of 1930. Indeed, during the first decades of this century it became obvious that illegal abortion was not considered, by large circles of the population, to be a criminal act on the part of the woman. In most of the rather few cases which were brought into court, the women were acquitted; when the cases

1 Criminal Code (Denmark 1930); Criminal Code (Denmark 1866).
2 Criminal Code § 242 (Denmark 1930).
3 See First Pregnancy Comm'n Rep. of 1936 On the Lawfulness of Termination of Pregnancy. This report consists of a study concerning eighty-two women who were charged with abortion during a five year period. Nineteen of these women were indicted. Fifteen of the women indicted were tried by jury and all were acquitted but one who was guilty of infanticide. Four of the women did not want a jury trial and they were found guilty and sentenced. See First Pregnancy Comm'n, Rep., supra at 12-13. The report also sets forth the main reasons for withdrawal of the charges against those women who were not indicted.
were decided by juries, this almost always happened, reflecting the
general public opinion that the woman ought not to be punished.
Furthermore, it was generally known that the abortion, as a "hidden
crime," in most cases never came to the attention of the police, and
it was a matter of great concern that most of the women who com-
mitt ed this "crime" had their pregnancy interrupted in an unsafe
manner by "quacks" at the risk of their life and health.

In spite of the general criminality of abortion, it had been recog-
nized for many years as lawful for a doctor to terminate a pregnancy
in special cases if such intervention was necessary to avert serious
danger to the life or health of the pregnant woman; this was the
so-called "medical indication." In this respect, however, a great
amount of uncertainty prevailed among physicians, and highly dif-
ferent attitudes toward this medical indication were adopted.

It was this general uncertainty about the legality of abortion
under the medical indication which in 1932 motivated the Medico-
legal Council to recommend to the Ministry of Justice that there be
undertaken a general review of the question of whether termination
of pregnancy should be permitted and, if so, to what extent. The
Council also recommended that the Ministry consider the question
of whether information on the use of contraceptives should be dis-
seminated by the State. In the same year, the Ministry of Justice
established the first Pregnancy Commission; the result was the
Pregnancy Measures Act of 1937 (Pregnancy Act), which was
substantially amended in 1956.

Since 1937, the abortion legislation has been subject to review
at regular intervals; the application of the Pregnancy Act has been

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5 Ibid.
6 See Krabbe, Criminal Code Textbook (C.E.G.2d 1935) (The author is a
Professor of Law at the University of Copenhagen). The practice was formulated
through judicial fiat, based on the rule of necessity.
7 See First Pregnancy Comm'n Rep., supra note 3, at 5.
8 Ibid.
9 Ibid. The Ministry of Justice established a commission on Nov. 7, 1932, for the
purpose of studying: (1) whether intermission of pregnancy ought to be permitted,
and if so, to what extent; (2) whether the State ought to subsidize or organize a medi-
cal information center for the purpose of preventing the occurrence of unwanted preg-
nancies; and (3) whether there is reason for amending Criminal Code § 235 (Den-
mark 1930) which prohibits the advertising of contraceptive objects and services.
10 Act Concerning Provisions Relating to Pregnancy, Act No. 163 of May 18, 1937,
amended by Act No. 89 of March 15, 1939 [hereinafter cited as 1937 Pregnancy
Act].
11 Act Concerning Provisions Relating to Pregnancy, Act No. 177 of June 23, 1956
followed closely.\textsuperscript{12} Statistical material concerning both the number of legal and estimated illegal abortions has been published, often together with proposals for preventing abortions, legal as well as illegal.\textsuperscript{13}

I. THE EVOLUTION OF ABORTION LEGISLATION IN DENMARK

A. Danish Attitudes Toward Abortion

Much discussion has taken place concerning the extent to which legal abortion should be allowed; but it is generally agreed that although legal abortion is a highly deplorable step which should be prevented as far as possible, there are situations in which abortion is the best solution. In these cases the woman ought to have the operation performed in a hospital under safe conditions and with the aid of expert medical advice and supervision.

The abortion legislation should be considered as part of the social legislation of the country; and as a preferable alternative to abortion, constructive help and support should be provided to women in unwanted pregnancy so as to encourage them to carry through their pregnancy. Thus, it is important for women in unwanted pregnancy to be brought into contact with organizations capable of giving help and advice during pregnancy and after delivery. In Denmark, this is one of the services provided by the Mothers Aid Centers.\textsuperscript{14} Experience has shown that women in unwanted pregnancy are often desperately determined on one thing — to obtain abortion — and are only interested in applying to organizations which are not only capable of assisting them in pregnancy, but which will also consider abortion.\textsuperscript{15} For this reason it is important that the Mothers Aid Centers, to some extent, be active in the decision on the request for abortion. The Centers have played an im-

\textsuperscript{12} See \textit{The Mothers Aid Centers of Copenhagen Reps.} (1941-1948). The Mothers Aid Centers, which have increasingly had the responsibility of administering the Pregnancy Act (see text accompanying notes 32-34 \textit{infra}), publish regular reports on the number of legal abortions recommended by the Centers. In addition, all cases of legal abortion must be reported to the Board of Health, which publishes the figures regularly.

\textsuperscript{13} See, \textit{e.g.}, Henningsen, Skalts & Hoffmeyer, \textit{Mothers Aid and Legal Abortion Since the Pregnancy Act of 1939}, 114 \textit{Ugeskrift for Læger} 502 (1952); Hoffmeyer & Norgaard, \textit{Incidence of Conception and the Course of Pregnancy}, 126 \textit{Ugeskrift for Læger} 355 (1964).

\textsuperscript{14} See text accompanying notes 16-21 \textit{infra}.

\textsuperscript{15} See Skalts, \textit{Termination of Pregnancy and Mothers Aid}, Socialt Tidsskrift, April 1943.
important role in the development of abortion legislation and today hold a central position in the administration of the Pregnancy Act; thus, a brief account of their activities is necessary.

B. Mothers Aid Centers

From the beginning of this century a private organization called "Mothers Aid" assisted single mothers, especially in Copenhagen. Eventually, that work attracted a good deal of attention and ultimately was expanded by the Mothers Aid Act of 1939 to include individual help and advice to all pregnant women and mothers with young children.

Today, eleven Mothers Aid Centers, under the Ministry of Social Affairs, are in operation throughout the country. Financed by the Central Government, their charge, under the relevant legislation, is to provide personal, social, legal, and medical assistance and guidance to pregnant women and mothers, as well as to families with infants and young children. The Centers are in contact with a large proportion of all expectant mothers, married and unmarried alike. The applicants are women from all classes of the population and from all parts of the country. Less than half of the women are married; the remainder are sole supporters.

The staff of the Centers is comprised of social workers, lawyers, and doctors (chiefly psychiatrists and gynecologists), and there is close teamwork between these professional groups. Characteristic of the work is the personal-psychiatric-medical help which is offered concurrently with economic-practical help. Efforts are made to establish constructive, active cooperation with the applicants in accordance with the principle of self-help.

Family guidance is provided. Direct financial support may be granted, often by way of benefits in kind (e.g., for a layette, for clothes for the pregnant woman, for domestic help during pregnancy and after childbirth). The Centers operate convalescence and treatment homes for pregnant women and mothers with infants.

16 The original Mothers Aid organization was financed by private contributions, whereas the Mothers Aid Centers established by the Mothers Aid Act of 1939 are financed by tax money. In addition, the present Mothers Aid Centers provide help and advice to all pregnant women and to women with young children, whereas the original Mothers Aid offered help and assistance to single mothers only. Furthermore, the original Mothers Aid operated only in Copenhagen whereas the present Mothers Aid Centers are operative throughout Denmark.


A number of special programs are provided for self-supporting mothers (i.e., unmarried, widowed, or separated women). The Centers are in touch with ninety per cent of all single mothers. Assistance is granted for maintenance during pregnancy and after childbirth in special homes for pregnant women and mothers, for paternity cases and maintenance orders, and for placing the child in a children's home, in private care, or for adoption. However, no more than approximately three per cent of the unmarried clients of the Mothers Aid have their children adopted by strangers — the so-called anonymous adoptions. To the vast majority of self-supporting mothers who keep their children, it is essential that long-term assistance be provided in order to make them better suited to establish a good home for their children. Financial assistance for education, training, or retraining is a very important help to many self-supporters. A small number of such mothers may obtain a flat in special houses with communal facilities — the so-called "collective house" — during the first difficult years after they have become self-supporting mothers. This permits them to settle down and prepare to fend for themselves and their children in the future. The award of a flat in such a house is intended to help during the early difficult period. The Centers consider it quite inadvisable to gather solitary mothers in special blocks of houses for any extended period of time. The flats are, therefore, let for a limited period, normally two years.

C. Aid to Women with an Unwanted Pregnancy: the Pregnancy Act of 1937

Women in unwanted pregnancy constitute about one-third of the Centers' clients. The first Pregnancy Act, enacted in 1937, provided for three indications for abortion: (1) the medical and sociomedical indication, allowing termination of a pregnancy when it involved serious danger to the life or health of the woman; (2) the ethical indication, allowing termination of pregnancy where the woman had become impregnated through certain criminal acts; and (3) the hereditary indication allowing termination of pregnancy when there was serious danger that the child would suffer from

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19 From the files of the Mothers Aid Centers.
20 See Nørgaard, The Mothers Aid Centers During 25 Years, Socialt Tidsskrift, March-April 1964, pp. 33-64.
21 From the files of the Mothers Aid Centers.
22 1937 Pregnancy Act.
severe hereditary illness or disturbance. While there was general agreement concerning the latter two indications, the first indication was the object of much discussion by the Pregnancy Commission, by Parliament, and by the populace.\textsuperscript{23} Besides the medical, the ethical, and the hereditary indications, the majority of the first Pregnancy Commission had proposed a “social” or a “welfare” indication,\textsuperscript{24} according to which abortion would be permitted in cases where pregnancy or childbirth involved unavoidable danger of lasting and substantial deterioration of the personal, familial, or social status of the woman. This social indication was, however, rejected by Parliament, where it was emphasized that instead of allowing termination of pregnancy on account of social reasons, it was the duty of the community to meet the motivating social difficulties, whether they were of a financial character or based on a rigid attitude in the community towards unmarried mothers.\textsuperscript{25}

However, a purely medical indication seemed too restrictive. The result was that the original, purely medical indication was changed to a medicosocial indication\textsuperscript{26} by the omission of the words “on account of illness” from the act. Thus, “other reasons” could underlie the danger to the woman's life or health.\textsuperscript{27} Circulars distributed by the Board of Health and the Ministry of Justice about the time of the enactment of the law mentioned, as examples of such “other reasons,” chronic malnutrition, exhaustion due to many confinements, suicidal attempts, and depression, but not necessarily pathological depression.\textsuperscript{28}

The decision on abortion should be made by two physicians, one of them, normally, the woman’s own doctor.\textsuperscript{29} In special cases certain additional requirements have to be met, one of which is having a special impact on the development of abortion legislation: in cases


\textsuperscript{24} See FIRST PREGNANCY COMM’N REP., supra note 3, at 77.

\textsuperscript{25} See, e.g., STEINCKE, *SHALL ABORTION BE EXEMPT FROM PUNISHMENT?* (Copenhagen, 1949).

\textsuperscript{26} The original text of the § 1(1) of Bill Concerning Provisions Relating to Pregnancy (1937) provided that abortion is permitted “when intermission of pregnancy is carried out in order to avert a present danger, due to illness, to the life of the woman or to lasting and considerable deterioration of her health.” Section 1(1) of the 1937 PREGNANCY ACT provided that abortion is permitted “when intermission of pregnancy is necessary to avert a grave danger to the life or health of the woman.”

\textsuperscript{27} 1937 PREGNANCY ACT § 2.

\textsuperscript{28} See Board of Health Circular, March 25, 1939 (unpublished); Ministry of Justice Ruling, January 23, 1940 (unpublished).

\textsuperscript{29} 1937 PREGNANCY ACT § 3 (1).
where the danger to the woman's life or health is due to reasons other than illness, it is a condition for termination of pregnancy that the Mothers Aid Center certify that the woman has been given information on the help and support that would be available to her during pregnancy and after childbirth.\textsuperscript{30} The rationale for this requirement was clear: in those cases where the indication for abortion was not purely medical, but rather where social, economic, familial, or personal reasons were prevailing, an attempt should always be made to solve these problems and avoid abortion. For this purpose the Mothers Aid Center was the proper organization. This point of view was considered so important that the effective date of the Pregnancy Act was postponed for eighteen months so as to permit the establishment of Mothers Aid Centers; thus, both the Pregnancy Act and the Mothers Aid Act came into effect in 1939.\textsuperscript{31}

Through the combination of the Pregnancy Act and the Mothers Aid Act, the foundation was laid for intensive work by the Mothers Aid Centers with women in unwanted pregnancy. During the first ten years, the number of women who applied to the Centers for legal abortion increased rapidly.\textsuperscript{32} Some women came on their own initiative; but between eighty and ninety per cent were referred by their doctors who generally preferred to bring their patients into contact with the Mothers Aid Centers,\textsuperscript{33} which, with their social-gynecological-psychiatric staff, were in a better position to give impartial expert opinions on the abortion question and had far better facilities for providing help and support. Furthermore, the Pregnancy Hygiene Act of 1945\textsuperscript{34} provided that physicians were under an obligation to refer to the Mothers Aid Centers any woman who expressed a desire for termination of pregnancy because of personal, social, or economic difficulties.

As time passed, it became increasingly necessary for the Mothers Aid to build up its staff and establish sociomedical teamwork whereby social workers would determine the kind of economic, social, or personal strain under which the woman was suffering so that doctors could decide whether or not the woman in question could bear the burden of that strain physically and psychically. In making these determinations, both the social workers and the doc-

\textsuperscript{30} 1937 \textit{Pregnancy Act} § 2(1).

\textsuperscript{31} Act No. 84 of March 1938, § 1, in which the effective date of the 1937 \textit{Pregnancy Act} was postponed from April 1, 1938 to Oct. 1, 1939.

\textsuperscript{32} See Nørgaard, \textit{supra} note 20.

\textsuperscript{33} See, \textit{e.g.}, [Jan. 1933] \textit{Mothers Aid Centers Rep.}

\textsuperscript{34} Act No. 472 of Oct. 1, 1945, § 1(2).
tors always considered the possibility of helping the woman carry her pregnancy to term either by means of sociomedical treatment or by various forms of social, economic, or personal support. If the Mothers Aid found that there was no indication for abortion, they so informed the woman; if, on the other hand, they found that abortion ought to be recommended, they arranged for the woman's hospitalization and sent the hospital detailed reports from the social worker and doctor. In nearly all of these cases the hospitals followed the recommendations of the Mothers Aid Centers; thus, in practice, the administration of the Pregnancy Act has rested with the Mothers Aid Centers.

D. Present Abortion Legislation: The Pregnancy Act of 1956

(1) Conditions Under the First Pregnancy Act.—In the first decade after the enactment of the Pregnancy Act of 1937 there was a considerable increase in the number of legal abortions in the country.\(^{35}\) This was not surprising for the period immediately following the first liberalization of abortion law. At the same time, the number of illegal abortions also increased.\(^{36}\) The rise in legal and illegal abortions was probably partly due to the difficult situation during the years of the Second World War period. This increase might also have been caused by the fact that the general measures of help for pregnant women and families with children contained in the Pregnancy Act of 1937 and the development of the practical-economic facilities of the Mothers Aid Centers were far from being carried out to the extent proposed in the discussions at the time of passage of the Pregnancy Act. And still another reason might be that information on the use of contraceptives was not available to the extent proposed by the first Pregnancy Commission.

At this time a controversy concerning the Pregnancy Act developed. Some contended that the increasing number of legal abortions indicated that the law was being interpreted too liberally. According to others, the increase indicated that the law was not being interpreted liberally enough. Furthermore, the drafting lacked clarity; indeed, the wording of the first indication left a good deal to interpretation.\(^{37}\)

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\(^{35}\) See Fenger & Lindhart, The Number of Abortions in Denmark 1940-1950, 114 UGESKRIFT FOR LÆGER 617-21 (1952).

\(^{36}\) See Oram, The Number of Criminal Abortions, 115 UGESKRIFT FOR LÆGER 1367 (1953).

\(^{37}\) In the situation where there may be grave danger to the health of the woman the doctor determines whether the danger actually exists. This determination may be a
The Mothers Aid Centers were, to a great extent, drawn into the discussions about the abortion problem. Many women, their families, and family doctors expressed the opinion that the Centers were too restrictive in recommending abortion. On the other hand, hospital physicians, gynecologists, and surgeons, who performed the operations, often expressed the opinion that the Mothers Aid Centers were too liberal.\textsuperscript{38} This opinion is not surprising since this latter group only saw the women who were recommended for abortion by the Mothers Aid Centers, but not the many women who were refused such recommendation.

(2) \textit{The Second Pregnancy Commission}.—The increasing discussion surrounding the abortion question resulted in the appointment of a second Pregnancy Commission in 1950.\textsuperscript{39} Again, the great problem of the indications for abortion was considered on an official level, and the different attitudes of the populace were clearly reflected in the proposals of the Commission. Four different proposals\textsuperscript{40} were made by the Commission members: (a) one member found that the question of abortion could only be decided by the woman herself and recommended “free abortion”;\textsuperscript{41} (b) one member recommended that the medical indication should be limited to cases of illness (i.e., a strict medical indication) with the ethical and hereditary indications being maintained;\textsuperscript{42} (c) four members recommended a social or welfare indication in accordance with the indication proposed by the majority of the first Pregnancy Commission;\textsuperscript{43} and (d) the majority (ten members) of the Commission matter of the doctor’s personal opinion, especially in ascertaining whether nervousness, or general weakness constitutes a grave danger.

\textsuperscript{38}See Rydberg, \textit{The Legal Abortions}, 114 UGESKRIFT FOR LÆGER 690 (1952).

\textsuperscript{39}Appointed by the Ministry of Justice, January 9, 1950. The purpose of the Commission as stated by the Ministry of Justice was to examine the need for amending the legislation on pregnancy by analyzing the past ten years developments and experience. The Commission was also to study and determine what tasks and means should be conferred upon the Mothers Aid Centers, and how the cooperation between the Centers, the public authorities, and the physicians should take place. In addition, the Commission was to study whether the State should subsidize or organize a medical information center which would operate to prevent unwanted pregnancies, and if so, recommend how this should be established. Finally, the Commission was to study the value and the mode of operation of the sexual clinics. See \textit{SECOND PREGNANCY COMM’N REP.} No. 96 OF 1954 ON AMENDMENTS OF LEGISLATION CONCERNING PREGNANCY.

\textsuperscript{40}See \textit{SECOND PREGNANCY COMM’N REP.}, supra note 39, at 96.

\textsuperscript{41}Ibid.

\textsuperscript{42}Id. at 122.

\textsuperscript{43}Id. at 92.
found that the indications set out in the Pregnancy Act of 1937 ought to be maintained without any radical changes.\textsuperscript{44}

The majority found that the law had been interpreted fairly well, but that since there had been some doubt concerning the extent and meaning of the medical and medicosocial indication, a clarification of the section relating to this indication was necessary. A very limited and clearly defined extension of the indications was proposed; the extension related primarily to women who suffered from severe physical or psychic defects.\textsuperscript{45} The bill proposed by the majority was passed by Parliament almost without change.\textsuperscript{46}

The question of the interpretation of the Pregnancy Act of 1937 was also taken up by the second Pregnancy Commission. The Commission thoroughly investigated the practice of the Mothers Aid Centers during the preceding ten years, and found that the rise in the number of abortions was due to a complexity of reasons,\textsuperscript{47} and that this trend was in no way the result of a misinterpretation of the legal provisions of the 1937 act.\textsuperscript{48} The majority of the Commission proposed that, as a general rule, the Mothers Aid Centers should make the decisions in abortion cases with the assistance of medical experts — a proposal which was, in fact, a legalization of the actual practice developed since the first Pregnancy Act.\textsuperscript{49} This proposal was adopted in the Pregnancy Act of 1956.\textsuperscript{50}

\section*{II. Legal Abortion Under the Pregnancy Act of 1956}

\subsection*{A. The Legal Indications for Abortion}

The new act did not involve any essential changes in the opportunity for termination of pregnancy and caused no increase in the number of legal abortions. The Pregnancy Act provides for legal

\begin{footnotesize}
\begin{enumerate}
\item \textit{Id.} at 67.
\item \textit{Ibid.} The Minister of Justice can, after the issuance of a statement from the Central Board (see note \textit{58 infra}), grant permission to interrupt a pregnancy even if the conditions mentioned in § 1 of the Bill Concerning Provisions Relating to Pregnancy (1937) (see note \textit{26 supra} and accompanying text) are not fulfilled, provided that extraordinary circumstances exist for interrupting the pregnancy (see text following note \textit{55 infra}).
\item \textit{1956 PREGNANCY ACT} § 1.
\item This is true except as to one member of the Commission. See note \textit{43 supra} and accompanying text.
\item See \textit{SECOND PREGNANCY COMM'N REP.}, \textit{supra} note 39, at 34.
\item \textit{Id.} at 69.
\item \textit{1956 PREGNANCY ACT} § 3(3).
\end{enumerate}
\end{footnotesize}
termination of pregnancy in four main groups of cases: (1) where termination of pregnancy is necessary to avert any serious danger to the life or health of the woman; (2) where the woman has become impregnated through various criminal acts specified in the act; (3) where the child is likely to be born with any serious form of mental illness, mental deficiency, or any serious physical abnormality or disease; and (4) where because of serious physical or psychic defects or other medical reasons the woman is deemed unfit to take proper care of her child.\textsuperscript{51}

(1) Where Termination of Pregnancy Is Necessary To Avert Serious Danger to the Life or Health of the Woman.—The clarification proposed by the Pregnancy Commission resulted in an amplification of the provision in the 1937 act. In evaluating the danger, due consideration must now be given to all relevant circumstances, including the conditions under which the woman must live. Consideration is to be given not only to her physical and mental health, but also to any condition of physical or psychic weakness, present or threatening.

This provision is based on the principle that the condition of health and the opportunities for taking curative measures should be viewed in the light of the living conditions of the patient. It is still required, however, that there be serious danger to the life or health of the woman. No matter how poor the social, economic, and matrimonial conditions may be, they will never in themselves be sufficient ground for abortion. Thus, the act does not provide for any social or welfare indication, but the medical indication is sociomedical in principle.

(2) Where the Woman Has Become Impregnated Through Various Criminal Acts.\textsuperscript{52}—This is the so-called ethical indication. Sexual intercourse with a child under 15 years of age is such a criminal act under the Danish Criminal Code;\textsuperscript{53} a girl who has become pregnant before she reaches the age of 15 may always obtain a legal abortion, provided her pregnancy is not too far advanced. Termination of pregnancy due to incest or rape is also permitted; however, in the case of pregnancy by rape, it is a prerequisite that the offense be reported to the police and that they do not dismiss it as false. However, it is not a condition precedent to the abortion operation that a court shall have affirmatively decided the question

\textsuperscript{51} 1956 PREGNANCY ACT § 1(1).
\textsuperscript{52} 1956 PREGNANCY ACT § 1(1)(2).
\textsuperscript{53} CRIMINAL CODE No. 126, § 222 (1) (Denmark 1930), with later amendments.
of the guilt of the rapist. The time limitations for termination of pregnancy would make it impossible to await this decision.

(3) Where the Child Is Likely To Be Born With Any Serious Form of Mental Illness, Mental Deficiency, or Any Serious Physical Abnormality or Disease.—This is the so-called heredity indication. The evidence of such hereditary risk is normally obtained through a prognosis supplied by the Institute of Human Genetics at the University of Copenhagen.\(^5\) Included here are risks due to prenatal or fetal injuries, for instance, those resulting from rubella\(^5\) or thalidomide.

(4) Where the Woman Is Deemed Unfit To Take Proper Care of Her Child.—This provision, which was introduced in 1956, has special reference to conditions where, by reason of any severe mental or physical defect (mental deficiency, severe defects of character, severe physical disability), the woman is not able to care for her child, and where termination of the pregnancy is not indicated for health or hereditary reasons. In principle, it is a social indication, it being the interests of the child, not of the woman herself, that are safeguarded. In accordance with its terms, the provision has been applied in only a few cases. The current debate about extending the range of indications has touched upon the possibility of applying a broader construction to this provision so as to include, for instance, a larger number of mentally retarded persons.\(^6\)

Before any legal abortion may be performed, it is a requirement that the woman desire the termination of her pregnancy. If by reason of mental illness, mental deficiency, or any other reason she is incapable of understanding the significance of the intervention, the application for abortion may be made by an appointed guardian\(^5\) (e.g., by the person in charge of a mental hospital or an institution for mental defectives).

B. Procedure for Obtaining Abortion Under the 1956 Act.

When a woman wants a termination of her pregnancy, the general procedure is for her to apply to the nearest Mothers Aid Center.

\(^{54}\) This institute, which receives reports on all cases of serious hereditary disease and on all admissions to psychiatric institutions, and other pertinent information, is in possession of extensive material relating to the genetic conditions of the individual family.

\(^{55}\) This disease is commonly known as German measles.

\(^{56}\) Material dealing with a discussion of the problem which took place at the University of Copenhagen in May, 1965 is presently being processed for publication.

\(^{57}\) 1956 PREGNANCY ACT § 2(2).
The Center then begins an exhaustive fact-finding procedure, the goal of which is to provide the decision-makers with all available information pertinent to the indications discussed above.

(1) **Investigation by the Mothers Aid Centers.**—Through social and medical examinations; visits to the home; interviews with the woman’s husband (possibly the father of the child), the parents or other relatives of the young girl; and through correspondence with the woman’s own doctor or perhaps with the above-mentioned University Institute for Human Genetics, the Mothers Aid Center provides an over-all picture of the woman and her total situation. Attention is continually given to the question of whether it will be possible, through social and/or medical measures, to prevent abortion.

In some cases examinations performed outside of a hospital will not provide a sufficient basis for deciding whether the woman will be able to go through with her pregnancy. In such cases, hospitalization in a psychiatric or other hospital ward may be required. Of great importance in this context is a special type of treatment and observation home operated by the Mothers Aid. These homes are small and cozy with no mark of a hospital-like atmosphere. The homes have a matron and assistants who are trained nurses and work in close cooperation with the social and medical personnel of the Mothers Aid. The attitude is positive, constructive, and therapeutic. The social worker, psychiatrist, and gynecologist pay regular visits to the homes; and because of the therapeutic attitude, the homes provide extremely good opportunities for observation of pregnant women, often better than a psychiatric ward. Furthermore, living at one of these homes will often be less of a strain on the woman than hospitalization would be.

(2) **Decision by Medicosocial Boards.**—When the necessary examinations are finished — this requires, on the average, about two weeks — the justification of legal abortion is made by medicosocial boards which are linked to the eleven Mothers Aid Centers in the country. There are a total of twenty such boards, each covering

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58 Mothers Aid Centers, Act No. 176 of June 23, 1956, on Amendments of Act No. 119 of March 15, 1939 on Mothers Aid Centers § 6A(1)(2). According to § 3 of the act, one Central Board is established which coordinates the work of the boards connected with the Mothers Aid Centers. The Central Board acts as consultant to the boards and on the whole aims at a uniform practice concerning intermission of pregnancy. The three members of the Central Board — a director of a Mothers Aid Center or a “social practitioner” with knowledge of the work of the Mothers Aid Centers; two medical doctors, one of whom must be a specialist in psychiatry and the other a specialist in gynecology or surgery — are appointed for a period of four years by the Ministry of Social Affairs.
Each board is comprised of three members: a graduate in law or a social worker representing the Mothers Aid, generally the person in charge of the Center which has handled the applicant's case; a psychiatrist, usually the one who has been in charge of the medical examination of the patient by the Mothers Aid; and a surgeon or a gynecologist, normally the person in charge of one of the hospital wards where the operation, if any, is to be performed. Any termination of pregnancy must be unanimously approved by the board. This composition ensures representation of gynecologic, psychiatric, and sociolegal expert knowledge. The collaboration of the members of each board has proven excellent, and the system is valuable in that it promotes a closer understanding between the professional groups concerned. As mentioned earlier, a certain tension was sometimes formerly noticeable between psychiatrists and the Mothers Aid on the one hand, and surgeons and gynecologists on the other, the latter being informed only of the cases in which abortion was recommended. Now that all cases, including those ending in a refusal, are submitted to the boards, that tension has disappeared.

There is one exception to the general rule that questions concerning termination of pregnancy shall be decided by the boards of the Mothers Aid. Where it has been ascertained by a hospital that, because of illness, the life or health of a woman is in serious danger, referral to a Mothers Aid Center is not required, the hospital superintendent being considered competent to decide on termination of the pregnancy. This permits the general practitioner to send his abortion-seeking patients to a hospital. However, only a small proportion of legal abortions are carried out under this provision. Of the 3,970 legal abortions performed in Denmark in 1963, 3,346 took place on the basis of board decisions, while 624 were decided by physicians. Of the latter 624 cases, however, more than 200 had first applied to the Mothers Aid, which had arranged for their hospitalization for further observation.

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69 More than one board is established at many of the Center locations. For instance, at the Mothers Aid Center of Copenhagen, five boards are established. See Mothers Aid Centers § 6A(1), Act No. 176 of June 23, 1956.
60 Mothers Aid Centers § 6A(1), Act No. 176 of June 23, 1956.
61 Mothers Aid Centers § 6A(2), Act No. 176 of June 23, 1956.
62 See text accompanying note 38 supra.
63 1956 PREGNANCY ACT § 3 (2).
64 Notice to the Mothers Aid Center from the Board of Health (unpublished).
65 From the files of the Mothers Aid Centers.
(3) The Abortion Operation.—The operation may be performed only by a central or local government hospital, or by a private hospital which receives public grants. In Denmark, this means virtually all hospitals.

Apart from the cases in which there is serious risk to the life or health of the woman, a pregnancy cannot normally be terminated after the expiration of the sixteenth week of gestation. Under the Pregnancy Act of 1937 this time-limit was three months, but was extended by the 1956 act because of the various factors involved in the consideration of the promptness with which abortion cases should be decided. For example, there must be sufficient time for examinations and observation, if required. Furthermore, it may be useful for the woman to have time to reflect and reconsider the decision to have the abortion performed, since the initial decision may have been made when the feelings of panic and depression during the first few months of her pregnancy were present.

On the other hand, intervention should, as far as possible, be made at an early stage of the pregnancy. In recent years, special attention has been given to investigations, carried out in Denmark as well as abroad, which seem to indicate that the risk attending the operation increases considerably as the pregnancy becomes more advanced. This consideration has led to speedier decisions.

(4) Residency Requirement.—A few years ago, after the Mothers Aid had been approached by a number of foreign women seeking legal abortion in Denmark, it was decided that termination of pregnancy in Denmark would, in principal, be confined to women ordinarily residing in Denmark. Now, pregnancy of nonresident women may be terminated only on purely medical grounds by the superintendent of the hospital to which they are sent. Thus, there is every reason to advise nonresident women against going to Denmark to seek an abortion. Virtually all of them will have to leave Denmark in the same condition as they came.

66 1956 PREGNANCY ACT § 3(1).
67 1956 PREGNANCY ACT § 1(2).
68 1957 PREGNANCY ACT § 1(2).
69 Discussed at professional conferences (unpublished).
71 Ruling by the Ministry of Justice to the Mothers Aid Centers, Sept. 23, 1959 (unpublished).
72 Ibid.
C. Accomplishments of the Mothers Aid Centers

As only ten to fifteen per cent of legal abortions are performed without the assistance of the Mothers Aid Centers, a survey of the work done by these Centers will give a complete picture of abortion practices in Denmark.

(1) The Applicants.—Since about 1950 between 7,000 and 8,000 women per year have applied to the Mothers Aid Centers for abortion. In 1964, the number of applications for abortion increased to about 8,200 while the number of live births rose from about 77,000 to 82,400. In the year 1963-1964, sixty-six per cent of the applicants were married, twenty-four per cent were unmarried, while ten per cent were divorced, separated, or widowed. With regard to the relative age distribution of expectant mother-applicants, the clientele of the Centers includes many women under twenty years of age and relatively many aged thirty-five and over. This indicates that pregnancy in these age-groups frequently gives rise to special problems and difficulties.

The women are from all social strata and from all walks of life, but certain trends seem to be significant. There is a certain predominance of spouses of non-skilled workers, while few women married to farmers are represented. The housing conditions of many of the women are below the average standard. And finally, a comparison with the average number of children in families of the general population shows that the women who seek abortion have comparatively many children; and many have aborted previously.

(2) The Incidence of Abortion Recommendations.—For a number of years about half of the applicants have been recommended for termination of their pregnancy; in almost all cases this was followed by an operation. The following table shows the disposition of abortion applications by the Mothers Aid Centers in recent years.

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73 See Nørgaard, The Mothers Aid Centers During 25 Years, Socialt Tidsskrift, March-April 1964, pp. 33-64.
74 From the files of the Mothers Aid Centers.
76 See REP. ON MOTHERS AID CENTERS 35, 89 (1963).
77 According to § 3 (4) of the 1956 PREGNANCY ACT the chief physicians may deny to carry out the operation. In such cases the woman can be hospitalized in another hospital by arrangement with the Mothers Aid Center if necessary. This seldom occurs.
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>abs. fig.</td>
<td>%</td>
<td>abs. fig.</td>
<td>%</td>
</tr>
<tr>
<td>3,323</td>
<td>43</td>
<td>3,482</td>
<td>46</td>
</tr>
</tbody>
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<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>abs. fig.</td>
<td>%</td>
<td>abs. fig.</td>
<td>%</td>
</tr>
<tr>
<td>374</td>
<td>5</td>
<td>237</td>
<td>3</td>
</tr>
</tbody>
</table>

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<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>abs. fig.</td>
<td>%</td>
<td>abs. fig.</td>
<td>%</td>
</tr>
<tr>
<td>3,697</td>
<td>48</td>
<td>3,719</td>
<td>49</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Abortion refused or the woman changes her mind</th>
<th>1958-1959</th>
<th>1960-1961</th>
<th>1963-1964</th>
</tr>
</thead>
<tbody>
<tr>
<td>abs. fig.</td>
<td>%</td>
<td>abs. fig.</td>
<td>%</td>
</tr>
<tr>
<td>3,701</td>
<td>49</td>
<td>3,619</td>
<td>48</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Spontaneous abortion prior to decision, etc.</th>
<th>1958-1959</th>
<th>1960-1961</th>
<th>1963-1964</th>
</tr>
</thead>
<tbody>
<tr>
<td>abs. fig.</td>
<td>%</td>
<td>abs. fig.</td>
<td>%</td>
</tr>
<tr>
<td>258</td>
<td>3</td>
<td>228</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>abs. fig.</td>
<td>%</td>
<td>abs. fig.</td>
<td>%</td>
</tr>
<tr>
<td>7,656</td>
<td>100</td>
<td>7,566</td>
<td>100</td>
</tr>
</tbody>
</table>

* Women changing their minds before medical examination by the Mothers Aid or found not to be pregnant are not included.

The last few years have shown an increasing incidence of recommendation of abortion. This is probably due to the fact that the women and their doctors are becoming increasingly familiar with the practice of the Mothers Aid Centers, so that only those women who have some chance of getting a favorable recommendation from the Centers apply to Mothers Aid.

The following table gives a breakdown of the bases used for granting applications for abortion in the year 1963-1964.

<table>
<thead>
<tr>
<th>Indication</th>
<th>1963-1964</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>abs. fig.</td>
</tr>
<tr>
<td>Medical (made by medicosocial board)</td>
<td>3,210</td>
</tr>
<tr>
<td>Medical (made by hospital superintendent)</td>
<td>197</td>
</tr>
<tr>
<td>Medical indication, total</td>
<td>3,407</td>
</tr>
<tr>
<td>Ethical</td>
<td>45</td>
</tr>
<tr>
<td>Hereditary</td>
<td>181</td>
</tr>
<tr>
<td>Combined medical and hereditary</td>
<td>151</td>
</tr>
<tr>
<td>&quot;Defect&quot;</td>
<td>87</td>
</tr>
<tr>
<td>Various combinations</td>
<td>65</td>
</tr>
<tr>
<td>Total indications for legal abortion</td>
<td>3,936</td>
</tr>
</tbody>
</table>

Since 1956, the incidence of legal abortion and the indications therefore have been very much the same.\(^78\) As shown by the above table, the medical indication occurs most frequently. The cases of

\(^78\) See REP. ON MOTHERS AID CENTERS (1963).
ethical indications are rather few, and more than half of these involve girls under fifteen years of age.\textsuperscript{79}

The "defect indication" is found in few cases. It has been applied, for example, to severely psychopathic or mentally deficient women or to women suffering from a very severe physical disability.\textsuperscript{80} Recently, discussions have indicated that some people feel that the defect indication has been interpreted too strictly by the sociomedical boards of the Centers; in particular, it has been argued that mentally deficient women should almost always be covered by this provision.\textsuperscript{81} Investigations concerning this question are presently being undertaken.\textsuperscript{82}

The incidence of recommendations for abortion varies considerably with the age of the woman, the expected strain on the woman, the applicant's marital status, and the woman's housing conditions. This is largely due to the predominance of the medical indication in the number of recommendations and the effect of these factors on the woman's health.

(a) The Age of the Woman.—The incidence of recommendations for abortion increases greatly with advancing age.\textsuperscript{83} While only twenty-four per cent of the applicants in the fifteen to nineteen year age-group were recommended, the percentage for women aged forty and over was seventy-three.

(b) The Expected Strain on the Woman.—The increasing strain on the woman, which attends an increasing number of childbirths, is also reflected by a higher incidence. While only twenty-eight per cent of the women who had not earlier given birth to a child were recommended for abortion, the percentage was fifty-eight for women with three to four previous childbirths and as much as seventy-five for women with seven or more previous childbirths.

(c) The Applicant's Marital Status.—The incidence of recommendations for abortion varies with the marital status of the woman, a relatively larger number of married and formerly married women being recommended than of unmarried women.\textsuperscript{84} This fact is naturally accounted for by the fact that married, or formerly married, women are, on the average, considerably older and have been subject to a heavier strain, for example by previous pregnancies. While

\textsuperscript{79} Ibid.
\textsuperscript{80} From the files of the Mothers Aid Centers.
\textsuperscript{81} See note 56 supra.
\textsuperscript{82} The investigations are being conducted by the Mothers Aid Center in Copenhagen.
\textsuperscript{83} See note 78 supra.
\textsuperscript{84} Ibid.
fifty-three per cent of the women who were married or had been married were recommended for abortion, the incidence was only thirty-one per cent for unmarried women. This seems to show rather clearly that the law provides no special social or welfare indication.

(d) The Woman's Housing Conditions.—While forty-seven per cent of the applicants who did not live in overcrowded flats were recommended for abortion, the rate was sixty per cent for women occupying such flats. This demonstrates that women living under bad housing conditions are, for that reason and by reason of other co-existent difficulties, undoubtedly subject to relatively more severe stress which may endanger their health.

In regard to occupation, there is no difference in the incidence of recommendation for housewives and for women working outside their homes. Fifty-three per cent were recommended in both groups.

(3) Effects of a Denial of Legal Abortion.—It is of great interest to know what happens to the women who are denied a legal abortion by the Mothers Aid. Do they abide by the decision or do they try another way out? At intervals, the Mothers Aid has made follow-up inquiries into the situation of such women through the cooperation of national registrars, by an examination of hospital files, and the like. These studies provide information on the women with whom the Mothers Aid is not in contact after a denial. Obviously, a great amount of secrecy has to be observed in such inquiries, so the outcome of a number of cases has remained unknown. However, recent investigations have shown that the applicants who received a refusal, increasingly and in a large measure, go through with their pregnancy and that many of them keep in contact with the Mothers Aid during their pregnancy and for the first year or so after their child is born.

The following table shows what became of 3,700 women whose applications for abortion in 1958-1959 were refused, or who changed their minds.

<table>
<thead>
<tr>
<th>Course of pregnancy</th>
<th>abs. fig.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>The child born</td>
<td>2,988</td>
<td>81</td>
</tr>
<tr>
<td>Aborted</td>
<td>598</td>
<td>16</td>
</tr>
<tr>
<td>Legal abortion, etc. (at a later date)</td>
<td>29</td>
<td>1</td>
</tr>
<tr>
<td>Unknown</td>
<td>86</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>3,701</td>
<td>100</td>
</tr>
</tbody>
</table>

85 Ibid.
86 Ibid.
87 Ibid.
These follow-up investigations seem to show that, once a pregnant woman has contacted the Mothers Aid and has been refused legal abortion, the unwillingly pregnant woman is, nevertheless, normally prepared to go through with the pregnancy. It is relatively rare for her to resort to any other solution. This low incidence of illegal abortion by women who have first contacted the Mothers Aid and have been denied an abortion seems to show that the Mothers Aid program is an effective deterrent to illegal abortion.

Even though a relatively small proportion of the women applying to the Mothers Aid have their pregnancy terminated illegally, the fact remains that there is still a large number of women who fail to consult a doctor or the Mothers Aid, resorting instead to illegal abortion.88

III. CRIMINAL ABORTION UNDER THE PREGNANCY ACT OF 1956

As previously mentioned, illegal abortion has for many years not really been considered a crime on the part of the woman.89 The point of view has for many years been that constructive help, treatment, and advice, so as to motivate the woman not to abort, is a far better way of prevention than is punishment. The second Pregnancy Commission discussed the possibility of entirely abolishing punishment of the women.90 The Commission, however, had no doubt that the persons who helped the woman should be subjected to a rather severe sentence; but it was felt that it would be legally difficult to establish a system by which the helper would be punished, while the woman herself, who had perhaps urged the helper to undertake the operation, would be completely exempt from punishment.91

A. Punitive Provisions of the Pregnancy Act of 1956

A woman who interrupts her pregnancy, or who has it interrupted knowing that the conditions for legal abortion do not exist, is subject to imprisonment up to three months.92 In special and ex-

89 See text accompanying note 4 supra.
90 See SECOND PREGNANCY COMM’N REP. NO. 96 OF 1954 ON AMENDMENTS OF LEGISLATION CONCERNING PREGNANCY 64-66.
91 Ibid.
92 1956 PREGNANCY ACT § 6(1).
tenuating circumstances, the sentence may be remitted. As previously mentioned, only a few cases have come to the attention of the police. In most of these cases the charge was dismissed; and in the very few cases in which the woman was convicted, the sentence was suspended.

The helper is liable to a considerably greater punishment. If the helper is a licensed medical practitioner, he is liable for imprisonment up to two years. In aggravated circumstances, the penalty is imprisonment for a term of up to four years; if abortion is carried out without the permission of the woman, the penalty is imprisonment for a term of up to twelve years.

If the helper is not a licensed practitioner, he is liable to imprisonment for a term of up to four years; in the aggravated circumstances referred to above, the term may run as long as eight and twelve years, respectively.

The law also provides for the punishment of the man who has impregnated the woman and has failed, in spite of her appeal to him, to give her reasonable support, provided that this factor has greatly influenced her decision to terminate her pregnancy.

Further, a requisite for the prosecution of illegal abortion is the establishment of paternity. The punishment may be imprisonment for a term not exceeding one year. This last provision has been applied in only a few cases. This provision emphasizes the responsibility of the father, its purpose being largely preventive.

B. Incidence of Illegal Abortion

Even if few illegal abortions come to the attention of police and the courts, it is a fact that their number is great; however, since they are rarely reported, it is difficult to reliably estimate the incidence of illegal abortion. Various studies, however, have been made

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93 Ibid.
94 See SECOND PREGNANCY COMM'N REP., supra note 90, covering thirty-three cases, all of which resulted in suspended sentences.
95 1956 PREGNANCY ACT § 6(3).
96 Ibid.
97 Ibid.
98 1956 PREGNANCY ACT § 6(4).
99 Ibid.
100 1956 PREGNANCY ACT § 6(2).
101 Ibid.
102 Ibid.
103 This fact is a verbal unofficial communication which cannot be documented by case law.
to that end. A recent Danish study\textsuperscript{104} found that the number of illegal abortions amounted to nearly 15,000 a year — three or four times the number of legal abortions. Even though it was found in this study that the last ten years seemed to have brought a slight decrease (ten to fourteen per cent) in the number of illegal abortions, the figure is still far too high and presents a very serious problem to the national economy as well as to the individual, to whom it brings much unhappiness and suffering. Much discussion is going on concerning the methods of preventing illegal abortions.

C. Prevention of Illegal Abortions

As already mentioned, proposals for free or more liberal allowance of legal abortion were made by both the first and second Pregnancy Commissions.\textsuperscript{105} This view is still advanced on various sides on the ground that the large number of violations of the abortion law shows that it is no longer in accordance with the general sense of justice.\textsuperscript{106}

However, the majority viewpoint for many years has been that abortion must be a "last resort."\textsuperscript{107} Rather than amending the Pregnancy Act, the conditions underlying unwanted pregnancy, not the least of which is the lack of help and support, should be remedied. This view is in agreement with the point of view of the Mothers Aid Centers, who know by experience that a number of women in originally unwanted pregnancy can be encouraged to change their minds and carry through their pregnancy; the Centers are convinced that a much greater number ought to be helped and could be helped, if satisfactory means of help and support were available. Possible means for increasing the help and support are (1) an expansion of the Mothers Aid, (2) an expansion of the Contraceptive Clinics, and (3) an increase in general sexual guidance.

(1) Expansion of the Mothers Aid.—There is no doubt that a country's family policy is an essential element in solving the abortion problem and that the existence of effective services in connection with pregnancy and childbirth and for families with children are of particular importance. Regarding the single mother, it is of

\textsuperscript{104} See Hoffmeyer & Nørgaard, supra note 88, at 403.
\textsuperscript{105} For the Commissions' attitude see text accompanying notes 26-27, 45 supra.
\textsuperscript{106} See text accompanying notes 24-30, 39-50 supra.
prime importance to promote societal acceptance of, and respect for, both herself and her child.

But individual help (i.e., personal help and support, family-counseling, practical-economic help) as given by the Mothers Aid Centers continues to be indispensable to a number of women who for special reasons have problems concerning their pregnancy. However, the Centers still provide a rather limited service; funds and facilities for offering individual help ought to be greatly expanded. With such an expansion, women would realize that they might obtain effective help in their special difficulties from the Mothers Aid.

(2) Expansion of Contraceptive Clinics.—At the same time, measures ought to be taken to prevent unwanted pregnancies from coming into existence. A good deal has been done along these lines in Denmark during the last few years. Since 1961, the Mothers Aid Centers have operated contraceptive clinics which are available to all women.\(^{108}\) In addition, these clinics conduct experiments with new and effective means of birth control. Clinics have also been established by other organizations, such as the Association of Planned Parenthood. General medical practitioners are increasingly giving contraceptive advice to their patients, and according to a new bill,\(^{109}\) the advice is likely to be given free of charge when combined with a preventive health examination in connection with pregnancy and childbirth. However, since the aim is that all women, even those without difficulty, will be able to receive proper contraceptive advice, the facilities throughout the country are still too limited.

(3) Increasing Sexual Guidance.—At the same time, sexual guidance, widely disseminated through the schools, churches, physicians, and Mothers Aid Centers ought to be established. Sex education may indeed be said to be the responsibility of parents, but it is a fact that many homes are either unable to cope with this problem or need help. Sex information should be given in an open, matter-of-fact manner, always stressing the personal responsibility of the individual. However, this whole problem, as important as it may be for the abortion problem, is outside the scope of this article. Therefore, it shall only be mentioned that in 1961 the government appointed a commission\(^{110}\) to inquire into the need for information,

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\(^{109}\) *Proposed Bill* (Jan. 10, 1965), drafted by the Minister of the Interior.

\(^{110}\) The Commission was established by the government in November, 1961 because
ethical guidance, and counseling services in the field of sex. Since its appointment, the commission has been carrying out an extensive research program with a view toward obtaining an idea of the knowledge, conduct, and attitudes of the population in that field. A number of special investigations relating to conscripts, aborting women, women who have given birth, and pregnant teenagers have been undertaken. Finally, two counties have started practical experiments of intensified information and guidance.

IV. CONCLUSION

The relatively successful approach to the abortion problem in Denmark is largely a result of two factors — attitude and system. First, for many years efforts have been made to face the problems associated with undesired pregnancy. Attention has regularly been called to statistical data; the problem of abortion has been subjected to thorough study and consideration on the theory that pretending that the problem does not exist will not bring its resolution any nearer. A thorough consideration and discussion of the problems will provide better opportunities for making recommendations to improve the conditions and also for drafting the best possible legislation in this field.

The second advantage is that work with women in unwanted pregnancy and the disposition of applications for abortion are placed with organizations established for the specific purpose of helping and advising women both during pregnancy and after childbirth, namely, the Mothers Aid Centers. A close cooperation between the Centers and the family doctors is established, with the express purpose of helping the women in the best possible way. However, it is of great importance that an incentive to contact these Centers be generated in unwillingly pregnant women, so that the facilities of the Mothers Aid can be more effectively utilized by the community in the work of the importance of sexual questions both in personal development and in the safeguard of sound family life.

111 Order of the Prime Minister's Department, Nov. 1, 1961. The purpose of the committee shall among other things be (1) to study and estimate valid legislation, existing activities concerning information and counseling, including information in schools; (2) to arrange necessary studies — especially concerning youth-problems — of the actual knowledge of the population concerning sexual matters, including knowledge of contraceptives and of the sexual behavior (existing norms) in various age groups; and (3) to give proposals partly to improvement and co-ordination of existing activities of information and counseling, partly to possible new initiative, included possible legislation. Ibid.

112 The counties are Ribe and Sø. These projects were financed by state-provided funds and in cooperation with the committee.
of preventing abortions. In this way, the abortion problem is seen in the proper light — as part of the social and family legislation of the country. Open discussion combined with a general and comprehensive program of help and guidance will be important and necessary means of meeting the abortion problem.

APPENDIX

ACT CONCERNING PROVISIONS RELATING TO PREGNANCY*

WE, FREDERIK THE NINTH, by the Grace of God King of Denmark, the Wend and the Goth, Duke of Schleswig, Holstein, Stormarn, the Ditmarsh, Lauenburg and Oldenburg.

Do hereby proclaim: The Folketing has adopted, and We have given Our Royal Assent to the following Statute:

SECTION 1.

Subsection 1. A woman may have her pregnancy interrupted in the following cases:

1) When the interruption of the pregnancy is necessary to avert grave danger to the woman's life or health. In evaluating this danger, due consideration shall be given to all relevant circumstances, including those conditions under which the woman must live, and not only to her physical and psychic health, but also to any condition of physical or psychic weakness, present or threatening.

2) When the woman has been made pregnant under such circumstances as are dealt with in the Civil Criminal Code of April 15, 1930, Section 210, or Section 210 cfr. Section 212, as well as when the pregnancy is the result of a violation of the woman's sexual freedom under such circumstances as are referred to in Sections 216-223 of the Criminal Code, or in the aforementioned Sections as related to Section 224.

3) When there is imminent danger that the child, as the result of a hereditary taint or due to injuries or illness suffered in the fetal stage, might suffer from insanity, mental deficiency, other grave mental derangement, epilepsy, or serious and incurable abnormality or physical disease.

4) When, in very special cases, it is presumed that the woman will be unfit to take proper care of her child due to serious mental

* Translation by Dilling.
or physical defects or other medically indicated conditions.

Subsection 2. Legal abortion in the cases referred to in Section 1, Subsection 1, Clauses 2-4, may normally not be carried out after the end of the 16th week of pregnancy.

Subsection 3. If the pregnancy is the result of a violation of the woman's sexual freedom under circumstances referred to in the Criminal Code's Section 216; Section 217, Subsection 2; Sections 218 and 221, or these sections as related to Section 224, legal abortion may not be carried out unless the crime has been reported to the police and such report — having been duly investigated by the police — has not been dismissed as false.

Subsection 4. If legal abortion is to be carried out because of the hereditary taint referred to in Section 1, Subsection 1, Clause 3, and these genes originate from the woman, sterilization of the woman may be carried out in connection with the interruption of the pregnancy without special permission, provided that the woman agrees to it and no special reasons argue against it. The provisions of Section 2, Subsections 1 and 3, shall apply in such cases.

SECTION 2.

Legal abortion may not, unless justified by grave danger to the woman's life or health as the result of illness, be carried out until the following conditions have been complied with:

1) If the woman is under 18 years of age or has been declared incapable of managing her own affairs, the consent of those who hold parental custody of her or of her guardian shall be obtained unless decisive circumstances argue against it.

2) If the woman, due to unsoundness of mind, mental deficiency or other causes is unable to understand the consequences of the operation, the petition for legal abortion may be made by a special guardian appointed thereto by the Social Welfare Committee or, if she is under public care in a State Institution or other Approved Institution as provided by Section 67 of the Social Welfare Act, by the director of the Institution.

3) If the woman is married and cohabiting with her husband, the latter shall be given an opportunity to make a statement, unless special circumstances argue against it.

SECTION 3.

Subsection 1. Legal abortion may only be carried out by an authorized medical officer in a State or Municipal Hospital, or in a
private hospital receiving public grants or to which patients are sent at public expense.

Subsection 2. If the danger to the woman's life or health in the cases referred to in Section 1, Subsection 1, is due to illness, and this has been established in one of the hospitals mentioned in Subsection 1 above, the Chief Physician of that hospital may make the decision on the necessity for the interruption of pregnancy.

Subsection 3. Should a woman in other cases desire the interruption of her pregnancy, she must apply to a Mothers Aid Center for a legal abortion. The Mothers Aid Center will establish whether the conditions, set forth in Sections 1 and 2, for legal abortion have been fulfilled, and in the course of so doing should ordinarily obtain information from the woman's usual medical man. Further the Mothers Aid Center should consult with a specialist in medicine to the required extent, obtain a statement from the Institute of Genetic Biology or have the woman admitted to a hospital or a suitable home for observation or treatment. Decision as to whether legal abortion may be carried out will then be made in compliance with Section 6A, Subsection 1 of Act No. 119 of March 15, 1939 concerning Mothers Aid Centers, as amended by Act No. 176 of June 23, 1956, by a Joint Council consisting of 2 physicians and the director of the Mothers Aid Center or some other member of the staff of the Center with similar training.

Subsection 4. When decision to permit legal abortion has been made, the woman shall on request be admitted to the hospital (hospital department) under which she belongs. The Chief Physician of the hospital (hospital department) shall be entitled to submit the question of carrying out the operation to the Council referred to in Section 6A, Subsection 3, of Act No. 119 of March 15, 1939 concerning Mothers Aid Centers, as amended by Act No. 176 of June 23, 1956, for guidance. Should the Chief Physician refuse to carry out the operation, the patient may be sent to another hospital, if necessary by order of the Mothers Aid Center in question.

**SECTION 4.**

The medical officers mentioned in Section 3 as well as the staffs of the hospitals referred to in Section 3 are under obligation, in accordance with the provisions of Section 263 cfr. Section 275 of the Civil Criminal Code, to observe professional secrecy concerning the matters pertaining to private life of which they may gain knowledge or which they may surmise in connection with the question of
legal abortion, unless they are by law under obligation to make a statement, or unless they act in the warranted service of the public interest or of their own interests or of those of others.

SECTION 5.

He who, for use in making decisions as to whether the conditions for legal abortion have been fulfilled, testifies to something of which he has no knowledge, or who willfully gives erroneous information, is liable to penalties in accordance with the provisions of Section 162 of the Civil Criminal Code.

SECTION 6.

Subsection 1. A woman who interrupts her own pregnancy, or who has it interrupted by a person who is not a licensed medical practitioner, is liable to punishment by fine even though the conditions prescribed in Section 1 may have been fulfilled. If she herself interrupts her pregnancy, or if she has it interrupted, knowing that the conditions for legal abortion do not exist, the punishment is imprisonment for up to 3 months. Under special and extenuating circumstances sentence may be remitted.

Subsection 2. Should, in the course of proceedings instituted for the prosecution of illegal abortion by a woman who has become pregnant out of wedlock or her helpers, or of attempted illegal abortion by her helpers, such information come to light that it must be held to be established who has made her pregnant, that person shall be liable to a prison sentence of up to 1 year, under extenuating circumstances be liable to imprisonment, if it be proved that he, despite the fact that the woman has appealed to him for personal or economic assistance, has failed to give her such support and aid as would be reasonable in the circumstances, and that this omission has materially influenced her decision to interrupt her pregnancy.

Subsection 3. A licensed medical practitioner who interrupts a pregnancy or gives assistance thereto, knowing that the conditions for legal abortion as set forth in Section 1 hereof do not exist, is liable to a prison sentence of up to 2 years. Under aggravating circumstances, especially when the act has led to the death of the woman or has caused appreciable injury to her body or health, the penalty shall be up to 4 years in jail. If legal abortion in accordance with Section 1 is performed without the statutory requirements of Sections 2 and 3 having been fulfilled, the penalty shall be im-
prisonment or in extenuating circumstances a fine. If an abortion is performed without the consent of the woman, the penalty is a sentence of up to 12 years in jail.

Subsection 4. He who, without being a licensed medical practitioner, shall interrupt a pregnancy or give assistance thereto, is liable to a penalty of up to 4 years in jail. In aggravating circumstances, especially when the act has been performed for profit, or if it has led to the death of the woman or has caused appreciable injury to her body and health, the penalty shall be up to 8 years in jail. In case of the offense being repeated, or if the offender has acted without the consent of the woman, the penalty is up to 12 years in jail.

Subsection 5. The above penalties do not apply to offenses committed through negligence.

SECTION 7.

He who, by duress as defined by the Civil Criminal Code's Section 260, or by threats of economic loss or of injury to her family or social standing, or by promise of reward, induces a pregnant woman desirous of completing her pregnancy to interrupt that pregnancy, even though legal abortion may be performed in accordance with the provisions set forth for it, is liable to a term of up to 2 years in jail; however, the penalty shall be up to 4 years in jail if the interruption of the pregnancy is performed by a person who is not a licensed medical practitioner.

SECTION 8.

Liability to penalty for the offenses dealt with in Section 6 and 7 become statute-barred in accordance with the provisions of Sections 93 and 94 of the Civil Criminal Code of April 15, 1930. Indictment pursuant to Section 6, Subsection 1, cannot, however, take place if more than 1 year has passed after the abortion has been induced.

SECTION 9.

Subsection 1. The expense in connection with legal abortion shall be borne by the person in question. If she has no means to do so, the expense will be defrayed by the Treasury or, if she is under the care of one of the Welfare Institutions mentioned in Section 66 of Act No. 181 of May 20, 1933, by the Institution in question.
Subsection 2. In the case mentioned in Section 3, Subsection 4, last sentence, such part of the expense which would have been incurred in connection with hospitalization and operation in the hospital in the woman's own parish of domicile will be defrayed in accordance with Subsection 1 above. The Minister of Home Affairs can stipulate rules to the effect that the expense incidental to the woman's hospitalization in that hospital where the operation is carried out shall be refunded in part or in toto by the hospital in the woman's own parish of domicile.

Subsection 3. The respective Mothers Aid Center may, if special considerations for the woman argue in favor of it, sanction that the operation be carried out in a hospital away from the woman's parish of domicile. In such case the expense incurred thereby will be defrayed in accordance with Subsection 1 above.

SECTION 10.

Subsection 1. To municipalities or private societies which undertake the task of organizing and running Sexual Hygiene Counselling Clinics (or Family Counselling Services) for the general public the State may grant subsidies for half the amount expended.

Subsection 2. If the counselling services undertaken by private societies or organizations are closely linked with particular municipalities, the State may make its subsidies dependent upon the participation of the municipalities in question in the defrayment of the costs with one-half of the amount of the State grants.

Subsection 3. The grants of the State subsidies referred to in Subsections 1 and 2 hereof are met by appropriations on the Annual Budgets.

SECTION 11.

Subsection 1. Articles or substances that serve to prevent pregnancy may only be sold if approved by the Minister of Justice after consultation with the Public Health Board. If necessary, the Minister of Justice may, after consultation with the Minister of Trade, fix the prices, which shall be clearly marked on the wrapping, and can rule the necessary measures for carrying out an effective limitation and control of prices in connection with permission to sell the above-mentioned articles or substances. The articles and substances in question may be sold only by pharmacists or by dealers who have been authorized by the medical officer after consultation with the police.
Subsection 2. Commercial examination of urine samples with a view to detection of pregnancy may only be carried out by medical practitioners and pharmacists and by persons duly thereto authorized by the Board of Health.

Subsection 3. Violations of the provisions of this Section are punishable by fines.

SECTION 12.

Subsection 1. The Minister of Justice shall lay down more explicit rules for carrying this Act into effect.

Subsection 2. Violations of the rules laid down by the Minister of Justice for the carrying into effect of the provisions made in Sections 1-4 of this Act are subject to penalties of fines or imprisonment for up to 3 months.

SECTION 13.

Subsection 1. This Act goes into force on October 1, 1956.


Subsection 3. The Government is authorized by an Order in Council to put this Act into force for the Faroo Islands, if necessary with such amendments as the special conditions of the Islands may require.

Subsection 4. Until such time as Mothers Aid Centers or similar institutions can be set up in Greenland, legal abortions in Greenland in the cases dealt with in Section 3, Subsection 3, shall be possible after consultation between the medical officer who is to perform the operation, and another licenced medical practitioner.

Given at Christiansborg Castle, June 23, 1956

Under our Royal Hand and Seal.

FREDERIK R.