

Draft Law on the Scope of Personal Care in the Event of Circumcision of a Male Child (November 5, 2012)

Abstract

In 2012, a German court ruling classified the circumcision of a Muslim boy by a doctor as bodily harm. Although the Cologne court acquitted the doctor, the decision drew strong protests from Muslims and Jews – in part because the ruling created legal uncertainty. The Bundestag hastily passed a law allowing the circumcision of Muslim and Jewish boys. The debate about the weighting, balancing and restriction of fundamental rights – in this case freedom of religion, the right to physical self-determination and integrity, the best interests of the child and also parental rights – has only intensified in recent years: pediatricians in particular and those affected, who have experienced their circumcisions as traumatic, continue to vociferously criticize the legal sanction of this religious and cultural practice.

Source

The Bundestag has passed the following law:

Article 1

Amendment of the Civil Code

The following § 1631d is inserted after § 1631c of the German Civil Code in the version of the announcement of January 2, 2002 (Federal Law Gazette I p. 42, 2909; 2003 I p. 738), which was last amended by Article ... of the Act of ... (Federal Law Gazette I p. ...):

„§ 1631d

Circumcision of the male child

(1) Personal care also includes the right to consent to a circumcision of a male child who is not medically necessary and who lacks the capacity to consent and judgement, if this is to be carried out according to the rules of medical art. This does not apply if the best interests of the child are endangered by the circumcision, even taking into account its purpose.

(2) During the first six months after the birth of the child, persons designated for this purpose by a religious society may also perform circumcisions pursuant to paragraph (1) if they are specially trained for this purpose and, without being a physician, are comparably qualified to perform the circumcision. “

Article 2

Entry into force

This Act shall enter into force on the day following its promulgation.

Source of the original German text: Deutscher Bundestag Drucksache 17/11295 17. Wahlperiode 05. 11. 2012. Gesetzentwurf der Bundesregierung. Entwurf eines Gesetzes über den Umfang der Personensorge bei einer Beschneidung des männlichen Kindes, <https://dip21.bundestag.de/dip21/btd/17/112/1711295.pdf>.

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