

Representative Ken Ivory proposes the following substitute bill:

PROHIBITION OF GENITAL MUTILATION

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill prohibits female genital mutilation and provides a penalty.

Highlighted Provisions:

This bill:

- ▶ defines female genital mutilation;
- ▶ makes performing or facilitating female genital mutilation a second degree felony;
- ▶ provides that a medical professional who performs female genital mutilation shall lose the ability to practice permanently;
- ▶ declares that female genital mutilation is a form of child abuse for reporting requirements;
- ▶ allows a person subject to female genital mutilation to bring a civil action; and
- ▶ requires the Department of Health to create an education program to alert the community to the health risks and emotional trauma of female genital mutilation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 ENACTS:

27 [76-5-701](#), Utah Code Annotated 1953

28 [76-5-702](#), Utah Code Annotated 1953

29 [76-5-703](#), Utah Code Annotated 1953

30 [76-5-704](#), Utah Code Annotated 1953

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32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **76-5-701** is enacted to read:

34 **76-5-701. Female genital mutilation definition.**

35 (1) As used in this part, female genital mutilation means any procedure that involves
36 partial or total removal of the external female genitalia, or any harmful procedure to the female
37 genitalia, including:

38 (a) clitoridectomy;

39 (b) the partial or total removal of the clitoris or the prepuce;

40 (c) excision or the partial or total removal of the clitoris and the labia minora, with or
41 without excision of the labia majora;

42 (d) infibulation or the narrowing of the vaginal orifice with the creation of a covering
43 seal by cutting and appositioning the labia minora or the labia majora, with or without excision
44 of the clitoris;

45 (e) pricking, piercing, incising, or scraping, and cauterizing the genital area; or

46 (f) any other actions intended to alter the structure or function of the female genitalia
47 for non-medical reasons.

48 (2) Female genital mutilation is considered a form of child abuse for mandatory
49 reporting under Section [62A-4a-403](#).

50 Section 2. Section **76-5-702** is enacted to read:

51 **76-5-702. Prohibition on female genital mutilation -- Exceptions.**

52 (1) It is a second degree felony for any person to:

53 (a) perform a procedure described in Section [76-5-701](#) on a female under 18 years of
54 age;

55 (b) give permission for or permit a procedure described in Section [76-5-701](#) to be
56 performed on a female under 18 years of age; or

57 (c) remove or cause, permit, or facilitate the removal of a female under 18 years of age
 58 from this state for the purpose of facilitating the performance of a procedure described in
 59 Section 76-5-701 on the female.

60 (2) It is not a defense to female genital mutilation that the conduct described in Section
 61 76-5-701 is required as a matter of religion, custom, ritual, or standard practice, or that the
 62 individual on whom it is performed or the individual's parent or guardian consented to the
 63 procedure.

64 (3) A surgical procedure is not a violation of Section 76-5-701 if the procedure is
 65 performed by a physician licensed as a medical professional in the place it is performed and is:
 65a Ĥ→ (a) medically advisable;

66 [~~(a)~~] (b) ←Ĥ necessary to preserve or protect the physical health of the person on whom it is
 67 performed; or

68 Ĥ→ [~~(b)~~] (c) ←Ĥ requested for sex reassignment surgery by the person on whom it is
 68a performed.

69 (4) A medical professional licensed in accordance with Title 58, Chapter 31b, Nurse
 70 Practice Act, Chapter 67, Utah Medical Practice Act, Chapter 68, Utah Osteopathic Medical
 71 Practice Act, or Chapter 70a, Physician Assistant Act, who is convicted of a violation of this
 72 section shall have their license permanently revoked by the appropriate licensing board.

73 Section 3. Section **76-5-703** is enacted to read:

74 **76-5-703. Community Education Program.**

75 (1) The director of the Department of Health shall develop a community education
 76 program regarding female genital mutilation.

77 (2) The program shall include:

78 (a) education, prevention, and outreach materials regarding the health risks and
 79 emotional trauma inflicted by the practice of female genital mutilation;

80 (b) ways to develop and disseminate information regarding recognizing the risk factors
 81 associated with female genital mutilation; and

82 (c) training materials for law enforcement, teachers, and others who are mandated
 83 reporters under Section 62A-4a-403, encompassing:

84 (i) risk factors associated with female genital mutilation;

85 (ii) signs that an individual may be a victim of female genital mutilation;

86 (iii) best practices for responses to victims of female genital mutilation; and

87 (iv) the criminal penalties associated with the facilitation or commission of female

88 genital mutilation.

89 Section 4. Section **76-5-704** is enacted to read:

90 **76-5-704. Civil cause of action.**

91 (1) A victim of female genital mutilation may bring a civil action in any court of

92 competent jurisdiction for female genital mutilation any time within 10 years of:

93 (a) the procedure being performed; or

94 (b) the victim's 18th birthday.

95 (2) The court may award actual, compensatory, and punitive damages, and any other

96 appropriate relief.

97 (3) A prevailing plaintiff shall be awarded attorney fees and costs.

98 (4) Treble damages may be awarded if the plaintiff proves the defendant's acts were

99 willful and malicious.

100 (5) **Ĥ→ If a health care provider is charged and prosecuted for a violation of Section**

100a **76-5-702, ←Ĥ Section 78B-3-416 Ĥ→ [does] may ←Ĥ not apply to an action against**

100b **Ĥ→ [a] the ←Ĥ health care provider under**

101 this section.