

**PROHIBITION OF GENITAL MUTILATION**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

Senate Sponsor: \_\_\_\_\_

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**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 third 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:**

ENACTS:

**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



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 third 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:

66 (a) necessary to preserve or protect the physical health of the person on whom it is  
67 performed; or

68 (b) requested for sex reassignment surgery by the person on whom it is 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 activities 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;

82 (c) policies and procedures to promote partnerships between state agencies, political  
83 subdivisions, and private organizations to protect and provide assistance to victims of female  
84 genital mutilation; and

85 (d) training for law enforcement, teachers, and others who are mandated reporters  
86 under Section 62A-4a-403, encompassing:

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

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

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

90 (iv) the criminal penalties associated with the facilitation or commission of female  
91 genital mutilation.

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

93 **76-5-704. Civil cause of action.**

94 (1) A victim of female genital mutilation may bring a civil action in any court of  
95 competent jurisdiction for female genital mutilation any time within 10 years of:

96 (a) the procedure being performed; or

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

98 (2) The court may award actual, compensatory, and punitive damages, and any other  
99 appropriate relief.

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

101 (4) Treble damages may be awarded if the plaintiff proves the defendant's acts were  
102 willful and malicious.

103 (5) Section [78B-3-416](#) does not apply to an action against a health care provider under  
104 this section.