

## HB0430S01 compared with HB0430

~~{deleted text}~~ shows text that was in HB0430 but was deleted in HB0430S01.

Inserted text shows text that was not in HB0430 but was inserted into HB0430S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Ken Ivory proposes the following substitute bill:

### 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}~~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

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- ▶ 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

**76-5-702**, Utah Code Annotated 1953

**76-5-703**, Utah Code Annotated 1953

**76-5-704**, Utah Code Annotated 1953

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

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

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

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

(a) clitoridectomy;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) requested for sex reassignment surgery by the person on whom it is performed.

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

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

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

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

(2) The program shall include:

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

(b) ways to develop and disseminate information regarding recognizing the risk factors

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associated with female genital mutilation;

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

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

- (i) risk factors associated with female genital mutilation;
- (ii) signs that an individual may be a victim of female genital mutilation;
- (iii) best practices for responses to victims of female genital mutilation; and
- (iv) the criminal penalties associated with the facilitation or commission of female genital mutilation.

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

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

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

- (a) the procedure being performed; or
  - (b) the victim's 18th birthday.
- (2) The court may award actual, compensatory, and punitive damages, and any other appropriate relief.
- (3) A prevailing plaintiff shall be awarded attorney fees and costs.
- (4) Treble damages may be awarded if the plaintiff proves the defendant's acts were willful and malicious.

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