

Female Genital Mutilation (FGM) Statutes*
(Current through 6/06)

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* 18 States and the Federal Government have FGM-Specific Statutes. Others may use general child abuse or assault statutes to prosecute.

TENNESSEE

TENN. CODE ANN. § 39-13-110 (2005)

TEXAS

TEX. HEALTH & SAFETY CODE § 167.001 (2005)

TEX. FAM. CODE ANN. § 153.502 (2005)

WEST VIRGINIA

W. VA. CODE § 61-8D-3a (2006)

WISCONSIN

Wis. STAT. § 146.35 (2006)

Female Genital Mutilation (FGM) Statutes
(Current through 6/06)

FEDERAL STATUTES

18 USCS § 116 (2006) Female genital mutilation

(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

(b) A surgical operation is not a violation of this section if the operation is--

(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.¹

8 USC §1374 (2005) Information regarding female genital mutilation

(a) Provision of information regarding female genital mutilation

The Immigration and Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female genital mutilation which is compiled and presented in a manner which is limited to the practice itself and respectful to the cultural values of the societies in which such practice takes place.

(2) Information concerning potential legal consequences in the United States for

(A) Performing female genital mutilation, or

(B) Allowing a child under his or her care to be subjected to female genital mutilation, under criminal or child protection statutes or as a form of child abuse.

(b) Limitation

In consultation with the Secretary of State, the Commissioner of Immigration and Naturalization shall identify those countries in which female genital mutilation is commonly practiced and, to the extent practicable, limit the provision of information under subsection (a) of this section to aliens from such countries.

(c) "Female genital mutilation" defined

For purposes of this section, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minora, or labia majora.

STATE STATUTES

ARKANSAS

A.C.A § 9-13-402 (2006) INTERNATIONAL CHILD ABDUCTION PREVENTION ACT²

For the purposes of this subchapter:

"Child" means a minor under eighteen (18) years of age who is the subject of a custody or visitation;

"Human rights" means the basic principles that recognize each child's freedom and right to be protected from abuse and neglect.

"Human rights" includes the protection of children from:

- (i) Abuse and neglect;
- (ii) Arranged marriages;
- (iii) Child labor;
- (iv) Genital mutilation;**
- (v) Sexual exploitation;
- (vi) Slavery;
- (vii) Torture and the deprivation of liberty; and
- (viii) Armed conflicts.

(C) "Human rights" includes the right of children to:

- (i) Survive and develop;
- (ii) A name from birth;
- (iii) Be granted a nationality;
- (iv) Freedom of expression;
- (v) Freedom of thought, conscience, and religion; and
- (vi) A free and compulsory education;

(6) "International child abduction" means the act of taking away, enticing away, withholding, keeping, or concealing a child from his or her parent or custodian by removing the child from the United States;

(7) "Parent" means the biological or adoptive parent of a child;

(8) "Registration" means the official act of notification or documentation of the birth, name, or lineage of an individual; and

(9) "Security professional" means:

- (A) A bodyguard;
- (B) An off-duty certified law enforcement officer;
- (C) A person who holds a license issued by the State of Arkansas or another state; or
- (D) A person who has past experience or training as a professional in the area of securing the safety of persons.

CALIFORNIA

Cal Pen Code § 273.4(2006) Female genital mutilation act³

(a) If the act constituting a felony violation of subdivision (a) of Section 273a was female genital mutilation, as defined in subdivision (b), the defendant shall be punished by an additional term of imprisonment in the state prison for one year, in addition and consecutive to the punishment prescribed by Section 273a.

(b) "Female genital mutilation" means the excision or infibulation of the labia majora, labia minora, clitoris, or vulva, performed for nonmedical purposes.

(c) Nothing in this section shall preclude prosecution under Section 203, 205, or 206 or any other provision of law.

Cal Pen Code § 273a (2006)

Endangering child or causing or permitting child to suffer physical pain, mental suffering, or injury; Conditions of probation

(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

Cal Pen Code § 666.7 (2006) List of current sentence enhancement provisions; Provisions classified as Schedules A to U based on length of enhancement

The provisions listed in this subdivision imposing a sentence enhancement of one year imprisonment in the state prison may be referenced as Schedule A: (3) Felony conviction of

willful harm or injury to a child, involving female genital mutilation (subd. (a), Sec. 273.4, Pen. C.).

Cal Health & Saf Code § 124170⁴ (2006) Establishment of education and outreach activities

The State Department of Health Services, in consultation with the State Department of Social Services and the appropriate federal agency or department, shall establish and implement appropriate education, preventative, and outreach activities, focusing on the new immigrant populations that traditionally practice female genital mutilation, for the purpose of informing members of those communities of the health risks and emotional trauma inflicted by this practice and informing those communities and the medical community of the prohibition and ramifications of Section 273.4 of the Penal Code.

COLORADO

COLO. REV. STAT. §18-6-401 (2005) Child Abuse⁵

(1) (a) A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child.

(b) (I) Except as otherwise provided in subparagraph (III) of this paragraph (b), a person commits child abuse if such person excises or infibulates, in whole or in part, the labia majora, labia minora, vulva, or clitoris of a female child. A parent, guardian, or other person legally responsible for a female child or charged with the care or custody of a female child commits child abuse if he or she allows the excision or infibulation, in whole or in part, of such child's labia majora, labia minora, vulva, or clitoris.

(II) Belief that the conduct described in subparagraph (I) of this paragraph (b) is required as a matter of custom, ritual, or standard practice or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian shall not be an affirmative defense to a charge of child abuse under this paragraph (b).

(III) A surgical procedure as described in subparagraph (I) of this paragraph (b) is not a crime if the procedure:

(A) Is necessary to preserve the health of the child on whom it is performed and is performed by a person licensed to practice medicine under article 36 of title 12, C.R.S.; or

(B) Is performed on a child who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed to practice medicine under article 36 of title 12, C.R.S.

(IV) If the district attorney having jurisdiction over a case arising under this paragraph (b) has a reasonable belief that any person arrested or charged pursuant to this paragraph (b) is not a citizen or national of the United States, the district attorney shall report such information to the immigration and naturalization service in an expeditious manner.

(c) A person commits child abuse if, in the presence of a child, or on the premises where a child is found, or where a child resides, the person engages in the manufacture or attempted manufacture of a controlled substance, as defined by [section 18-18-102 \(5\)](#), or possesses ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the product as an immediate precursor in the manufacture of a controlled substance.

- (2) In this section, "child" means a person under the age of sixteen years.
- (3) The statutory privilege between patient and physician and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.
- (4) No person, other than the perpetrator, complicitor, coconspirator, or accessory, who reports an instance of child abuse to law enforcement officials shall be subjected to criminal or civil liability for any consequence of making such report unless he knows at the time of making it that it is untrue.
- (5) Deferred prosecution is authorized for a first offense under this section unless the provisions of subsection (7.5) of this section or [section 18-6-401.2](#) apply.
- (6) Repealed.
- (7) (a) Where death or injury results, the following shall apply:
- (I) When a person acts knowingly or recklessly and the child abuse results in death to the child, it is a class 2 felony except as provided in paragraph (c) of this subsection (7).
- (II) When a person acts with criminal negligence and the child abuse results in death to the child, it is a class 3 felony.
- (III) When a person acts knowingly or recklessly and the child abuse results in serious bodily injury to the child, it is a class 3 felony.
- (IV) When a person acts with criminal negligence and the child abuse results in serious bodily injury to the child, it is a class 4 felony.
- (V) When a person acts knowingly or recklessly and the child abuse results in any injury other than serious bodily injury, it is a class 1 misdemeanor.
- (VI) When a person acts with criminal negligence and the child abuse results in any injury other than serious bodily injury to the child, it is a class 2 misdemeanor.
- (b) Where no death or injury results, the following shall apply:
- (I) An act of child abuse when a person acts knowingly or recklessly is a class 2 misdemeanor.
- (II) An act of child abuse when a person acts with criminal negligence is a class 3 misdemeanor.
- (c) When a person knowingly causes the death of a child who has not yet attained twelve years of age and the person committing the offense is one in a position of trust with respect to the child, such person commits the crime of murder in the first degree as described in [section 18-3-102 \(1\) \(f\)](#).
- (d) When a person commits child abuse as described in paragraph (c) of subsection (1) of this section, it is a class 3 felony.
- (7.3) Felony child abuse is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in [section 18-1.3-401 \(10\)](#). Misdemeanor child abuse is an extraordinary risk crime that is subject to the modified sentencing range specified in [section 18-1.3-501 \(3\)](#).
- (7.5) If a defendant is convicted of the class 2 or class 3 felony of child abuse under subparagraph (I) or (III) of paragraph (a) of subsection (7) of this section, the court shall sentence the defendant in accordance with [section 18-1.3-401 \(8\) \(d\)](#).
- (8) Repealed.
- (9) If a parent is charged with permitting a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, pursuant to paragraph (a) of subsection (1) of this section, and the child was seventy-two hours old or younger at the time of the alleged offense, it shall be an affirmative defense to such charge that the parent safely, reasonably, and knowingly handed the child over to a firefighter, as defined in [section 18-3-201 \(1\)](#), or to a

hospital staff member who engages in the admission, care, or treatment of patients, when such firefighter is at a fire station or such hospital staff member is at a hospital.

DELAWARE

DEL. CODE ANN. tit. 11, § 780 (2006) Female genital mutilation

A person is guilty of female genital mutilation when:

(1) A person knowingly circumcises, excises or infibulates the whole or any part of the labia majora, labia minora or clitoris of a female minor; or

(2) A parent, guardian or other person legally responsible or charged with the care or custody of a female minor allows the circumcision, excision or infibulation, in whole or in part, of such minor's labia majora, labia minora or clitoris.

Female genital mutilation is a class E felony.

It is not a defense to a violation that the conduct described in (a) above is required as a matter of custom, ritual or standard practice, or that the minor on whom it is performed or the minor's parent or legal guardian consented to the procedure.

A surgical procedure is not a violation of this section if the procedure is:

(1) Necessary to the health of the minor on whom it is performed and is performed by a licensed physician under § 1720 of Title 24 or a physician-in-training under the supervision of a licensed physician; or

(2) Performed on a minor who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a licensed physician under § 1720 of Title 24 or a physician-in-training under the supervision of a licensed physician, or a licensed midwife under § 3336 of Title 18.

GEORGIA

GA. CODE ANN. § 16-5-27 (2006) (Female genital mutilation

(a) Any person:

(1) Who knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of a female under 18 years of age;

(2) Who is a parent, guardian, or has immediate custody or control of a female under 18 years of age and knowingly consents to or permits the circumcision, excision, or infibulation, in whole or in part, of the labia majora, labia minora, or clitoris of such female; or

(3) Who knowingly removes or causes or permits the removal of a female under 18 years of age from this state for the purpose of circumcising, excising, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of such female shall be guilty of female genital mutilation.

(b) A person convicted of female genital mutilation shall be punished by imprisonment for not less than five nor more than 20 years.

(c) This Code section shall not apply to procedures performed by or under the direction of a

physician, a registered professional nurse, a certified nurse midwife, or a licensed practical nurse licensed pursuant to Chapter 34 or 26, respectively, of Title 43 when necessary to preserve the physical health of the female. This Code section shall also not apply to any autopsy or limited dissection as defined by Code Section 45-16-21 which is conducted in accordance with Article 2 of Chapter 16 of Title 45.

(d) Consent of the female under 18 years of age or the parent, guardian, or custodian of the female under 18 years of age shall not be a defense to the offense of female genital mutilation. Religion, ritual, custom or standard practice shall not be a defense to the offense of female genital mutilation.

(e) The statutory privileges provided by Chapter 9 of Title 24 shall not apply to proceedings in which one of the parties to the privilege is charged with a crime against a female under 18 years of age, but such person shall be compellable to give evidence only on the specific act for which the defendant is charged.

ILLINOIS

§720 ILL. COMP. STAT. 5/12-34 (2005) Female genital mutilation⁶

Except as otherwise permitted in subsection (b), whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of another commits the offense of female genital mutilation. Consent to the procedure by a minor on whom it is performed or by the minor's parent or guardian is not a defense to a violation of this Section.

(b) A surgical procedure is not a violation of subsection (a) if the procedure:

(1) is necessary to the health of the person on whom it is performed and is performed by a physician licensed to practice medicine in all of its branches; or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a physician licensed to practice medicine in all of its branches.

(c) *Sentence.* Female genital mutilation is a Class X felony.

730 ILCS 5/5-8-1. Sentence of Imprisonment for Felony

(3) except as otherwise provided in the statute defining the offense, for a Class X felony, the sentence shall be not less than 6 years and not more than 30 years...

325 ILL. COMP. STAT. 5/3 (2005)

Sec. 3. As used in this Act unless the context otherwise requires:...

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent: (f) commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961 [720 ILCS 5/12-34], against the child...

MARYLAND

MD. CODE. ANN., HEALTH-GEN § 20-601 (2006) Female genital mutilation

(a) Illegal to perform procedure. -- Except as provided in § 20-602 of this subtitle, a person who knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia

minora or clitoris of an individual who is under the age of 18 years is guilty of female genital mutilation.

(b) Consent to procedure by legally responsible parent or guardian. -- Except as provided in § 20-602 of this subtitle, a parent, guardian, or other individual is guilty of female genital mutilation if the individual:

(1) Is legally responsible and charged with the care or custody of a child under the age of 18 years; and

(2) Knowingly consents to the circumcision, excision, or infibulation of the whole or any part of the labia majora or labia minora or clitoris of the child.

MD. CODE. ANN., HEALTH-GEN § 20-602 Surgical operation

(a) Surgical operation – A surgical operation is not a violation of this subtitle if the operation is necessary to the health of the individual on whom it is performed and is performed by a person licensed in the State as a medical practitioner.

(b) Custom or ritual. -- In determining whether an operation is necessary to the health of the individual, no account may be taken of the belief on the part of any individual that the operation is required as a matter of custom or ritual.

MD. CODE. ANN., HEALTH-GEN § 20-603 FEMALE GENITAL MUTILATION/ Penalties

A person who violates the provisions of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 5,000 or both.

MINNESOTA

MINN. STAT. § 609.2245 (2005) Female genital mutilation; penalties⁷

Subdivision 1. Crime. Except as otherwise permitted in subdivision 2, whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of another is guilty of a felony. Consent to the procedure by a minor on whom it is performed or by the minor's parent is not a defense to a violation of this subdivision.

Subd. 2. Permitted activities. A surgical procedure is not a violation of subdivision 1 if the procedure:

(1) is necessary to the health of the person on whom it is performed and is performed by: (i) a physician licensed under chapter 147; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice; or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth: (i) by a physician licensed under chapter 147; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice.

Minn. Sentencing Guidelines II.A (2005)

II.A.03. The following offenses were excluded from the Offense Severity Reference Table:

19. Female genital mutilation - 609.2245

II.A.05. The other offenses were excluded because prosecutions are rarely, if ever, initiated under them or because the underlying conduct included in the offense covers such a wide range

of severity. When persons are convicted of offenses excluded from the Offense Severity Reference Table, judges should exercise their discretion by assigning an offense a severity level which they believe to be appropriate. Judges should specify on the record the reasons a particular severity level was assigned. Factors which a judge may consider when assigning a severity level to an unranked offense include but are not limited to: 1) the gravity of the specific conduct underlying the unranked offense; 2) the severity level assigned to any ranked offense whose elements are similar to those of the unranked offense; 3) the conduct of and severity level assigned to other offenders for the same unranked offense; and 4) the severity level assigned to other offenders engaged in similar conduct. If a significant number of future convictions are obtained under one or more of the excluded offenses, the Commission will determine an appropriate severity level, and will add the offense to the Offense Severity Reference Table. (Amended effective August 1, 1982; amended effective November 1, 1983; amended effective August 1, 2000.)

MINN. STAT. § 144.3872 Female genital mutilation; education and outreach

The commissioner of health shall carry out appropriate education, prevention, and outreach activities in communities that traditionally practice female circumcision, excision, or infibulation to inform people in those communities about the health risks and emotional trauma inflicted by those practices and to inform them and the medical community of the criminal penalties contained in section 609.2245. The commissioner shall work with culturally appropriate groups to obtain private funds to help finance these prevention and outreach activities.

MISSOURI

MO. REV. STAT. § 568.065 (2005) Genital mutilation of a female child, penalty--affirmative defenses

1. A person commits the crime of genital mutilation if such person:

(1) Excises or infibulates, in whole or in part, the labia majora, labia minora, vulva or clitoris of a female child less than seventeen years of age; or

(2) Is a parent, guardian or other person legally responsible for a female child less than seventeen years of age and permits the excision or infibulation, in whole or in part, of the labia majora, labia minora, vulva or clitoris of such female child.

2. Genital mutilation is a class B felony.

3. Belief that the conduct described in subsection 1 of this section is required as a matter of custom, ritual or standard practice, or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian, shall not be an affirmative defense to a charge pursuant to this section.

4. It is an affirmative defense that the defendant engaged in the conduct charged which constitutes genital mutilation if the conduct was:

(1) Necessary to preserve the health of the child on whom it is performed and is performed by a person licensed to practice medicine in this state; or

(2) Performed on a child who is in labor or who has just given birth and is performed for medical purposes connected with such labor or birth by a person licensed to practice medicine in this state.

§ 558.011 R.S.Mo. (2005) Sentence of imprisonment, terms -- conditional release

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years...

NEVADA

NEV. REV. STAT. § 200.5083 (2006) Mutilation of genitalia of female child: Penalties; definitions.

1. A person who willfully:

(a) Mutilates, or aids, abets, encourages or participates in the mutilation of the genitalia of a female child; or

(b) Removes a female child from this state for the purpose of mutilating the genitalia of the child,

is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

2. It is not a defense that:

(a) The person engaging in the conduct prohibited by subsection 1 believes that the conduct is necessary or appropriate as a matter of custom, ritual or standard practice; or

(b) The child, the parent or legal guardian of the child, or another person legally responsible for the child has consented to the conduct prohibited by subsection 1.

3. As used in this section:

(a) "Child" means a person who is under 18 years of age.

(b) "Mutilates the genitalia of a female child" means the removal or infibulation in whole or in part of the clitoris, vulva, labia major or labia minor for nonmedical purposes.

NEW YORK

N.Y. PENAL LAW § 130.85 (2006) Female genital mutilation

1. A person is guilty of female genital mutilation when:

(a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or

(b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child's labia majora or labia minora or clitoris.

2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:

(a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

(b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual.

Female genital mutilation is a class E felony.

NORTH DAKOTA

N.D. CENT. CODE § 12.1- 36.01 (2006) Surgical alteration of the genitals of female minor - Penalty - Exception.

1. Except as provided in subsection 2, any person who knowingly separates or surgically alters normal, healthy, functioning genital tissue of a female minor is guilty of a class C felony.

2. A surgical operation is not a violation of this section if a licensed medical practitioner performs the operation to correct an anatomical abnormality or to remove diseased tissue that is an immediate threat to the health of the female minor. In applying this subsection, any belief that the operation is required as a matter of custom, ritual or standard of practice may not be taken into consideration.

OREGON

OR. REV. STAT. § 163.207 (2006) Female genital mutilation.

(1) A person commits the crime of female genital mutilation if the person:

(a) Knowingly circumcises, excises or infibulates the whole or any part of the labia majora, labia minora or clitoris of a child; or

(b) Is the parent, guardian or other person legally responsible for the care or custody of a child and knowingly allows the circumcision, excision or infibulation of the whole or any part of the child's labia majora, labia minora or clitoris.

(2) Female genital mutilation is a Class B felony.

(3)(a) A person who circumcises, excises or infibulates the whole or any part of a child's labia majora, labia minora or clitoris does not violate subsection (1) of this section if:

(A) The person is a physician, licensed to practice in this state; and

(B) The surgery is medically necessary for the physical well-being of the child.

(b) In determining medical necessity for purposes of paragraph (a)(B) of this subsection, a person may not consider the effect on the child of the child's belief that the surgery is required as a matter of custom or ritual.

OR. REV. STAT. § 431.827 (2006) Female genital mutilation prevention and education activities.

The Department of Human Services shall establish and implement appropriate education, prevention and outreach activities in communities that traditionally practice female circumcision, excision or infibulation for the purpose of informing:

(1) Those communities of the health risks and emotional trauma inflicted by the practices;

(2) Those communities and the medical community as to the existence and ramifications of ORS 163.207; and

(3) Those communities that the practices constitute physical injuries to a child for purposes of ORS 419B.005. (which states: Abuse means (B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.)

RHODE ISLAND

R.I. GEN. LAWS § 11-5-2 (2006) Felony assault⁸

(a) Every person who shall make an assault or battery, or both, with a dangerous weapon, or with acid or other dangerous substance, or by fire, or an assault or battery which results in serious bodily injury, shall be punished by imprisonment for not more than twenty (20) years.

(b) Where the provisions of "The Domestic Violence Prevention Act", chapter 29 of title 12, are applicable, the penalties for violation of this section shall also include the penalties as provided in § 12-29-5.

(c) "Serious bodily injury" means physical injury that:

(1) Creates a substantial risk of death;

(2) Causes protracted loss or impairment of the function of any bodily part, member or organ;

or

(3) Causes serious permanent disfigurement or circumcises, excises or infibulates the whole or any part of the labia majora or labia minora or clitoris of a person.

TENNESSEE

TENN. CODE ANN. § 39-13-110 (2005)⁹ Female genital mutilation

(a) Except as otherwise permitted in subsection (b), whoever knowingly circumcises, excises or infibulates in whole or in part, the labia majora, labia minora or clitoris of another commits a Class D felony. Consent to the procedure by a minor on whom it is performed or by the minor's parent is not a defense to a violation of this section.

(b) A surgical procedure is not a violation of subsection (a) if the procedure is:

(1) Necessary to the health of the person on whom it is performed and is performed by a licensed physician or physician-in-training under supervision of a licensed physician; or

(2) Performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a licensed physician or a physician-in-training under the supervision of a licensed physician.

TEXAS

TEX. HEALTH & SAFETY CODE ANN. § 167.001 (2005) Female Genital Mutilation Prohibited

(a) A person commits an offense if the person knowingly circumcises, excises, or infibulates any part of the labia majora or labia minora or clitoris of another person who is younger than 18 years of age.

(b) An offense under this section is a state jail felony.

- (c) It is a defense to prosecution under Subsection (a) that:
- (1) the person performing the act is a physician or other licensed health care professional and the act is within the scope of the person's license; and
 - (2) the act is performed for medical purposes.

TEX. FAM. CODE ANN. § 153.502 (2005) PREVENTION OF INTERNATIONAL PARENTAL CHILD ABDUCTION

- (c) If the court finds that there is credible evidence of a risk of abduction of the child by a parent of the child based on the court's consideration of the factors in Subsection (a), the court may also consider evidence regarding the following factors to evaluate the risk of international abduction of the child by a parent: (4) whether the foreign country to which the parent has ties:
- (J) poses a risk that the child's physical health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children, including arranged marriages, lack of freedom of religion, child labor, lack of child abuse laws, female genital mutilation, and any form of slavery.

WEST VIRGINIA

W. VA. CODE § 61-8D-3a (2006) Female Genital mutilation; penalties; definitions

- (a) Except as otherwise provided in subsection (b) of this section, any person who circumcises, excises or infibulates, in whole or in part, the labia majora, labia minora or clitoris of a female under the age of eighteen, or any parent, guardian or custodian of a female under the age of eighteen who allows the circumcision, excision or infibulation, in whole or in part, of such female's labia majora, labia minora or clitoris, shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than ten years and fined not less than one thousand dollars nor more than five thousand dollars.
- (b) A surgical procedure is not a violation of this section if the procedure:
- (1) Is necessary to preserve the health of the child on whom it is performed and is performed by a licensed medical professional authorized to practice medicine in this state; or
 - (2) The procedure is performed on a child who is in labor or has just given birth and is performed for legitimate medical purposes connected with that labor or birth by a licensed medical professional authorized to practice medicine in this state.
- (c) A person's belief that the conduct described in subsection (a) of this section: (i) Is required as a matter of custom, ritual or standard practice; or (ii) was consented to by the female on which the circumcision, excision or infibulation was performed shall not constitute a defense to criminal prosecution under subsection (a) of this section.

WISCONSIN

WIS. STAT. § 146.35 (2006) Female genital mutilation prohibited.

- (1) In this section, "infibulate" means to clasp together with buckles or stitches.
- (2) Except as provided in sub. (3), no person may circumcise, excise or infibulate the labia majora, labia minora or clitoris of a female minor.
- (3) Subsection (2) does not apply if the circumcision, excision or infibulation is performed by a physician, as defined in s. 448.01 (5), and is necessary for the health of the female minor or is

necessary to correct an anatomical abnormality.

(4) None of the following may be asserted as a defense to prosecution for a violation of sub. (2):

(a) Consent by the female minor or by a parent of the female minor to the circumcision, excision or infibulation.

(b) The circumcision, excision or infibulation is required as a matter of custom or ritual.

(5) Whoever violates sub. (2) is guilty of a Class H felony.

Wis. Stat. § 939.50 (2006) Classification of felonies.

(h) For a **Class H felony**, a fine not to exceed 10,000 or imprisonment not to exceed 6 years, or both.

¹ **Congressional findings.** Act Sept. 30, 1996, P.L. 104-208, Div C, Title VI, Subtitle D, § 645(a), 110 Stat. 3009-708, provides:

"The Congress finds that--(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States; (2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved; (3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional; (4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control; (5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the first amendment to the Constitution or under any other law; ..."

² Arkansas does not have a public health nor criminal code specific to FGM. It is listed only as a defined risk factor under human rights concerns within the International Child Abduction Prevention Act. See A.C.A. 9-13-401 through 9-13-407 for the text of the Act.

³ California legislature commented in 1996 that female genital mutilation is known to be practiced in 28 nations in the African continent, in a few countries in the Arab Peninsula, among some minority communities in Asia, and among migrants from these areas who have settled in Europe, Australia, and North America. Clusters of immigrants from nations where the practice of female genital mutilation is common have been identified in the San Francisco Bay area, in San Diego, and in Los Angeles.

⁴ Note that this is not a criminal statute but a public health regulation which aims to provide counseling and preventive care for populations at risk for genital mutilation and victims of the practice.

⁵ Female genital mutilation is considered a form of the criminal offense of child abuse in Colorado.

⁶ Statute applies to both women and girls.

⁷ Statute applies to both women and girls.

⁸ Statute applies to both women and girls.

⁹ Statute applies to both women and girls.