

Female Genital Mutilation (FGM) Statutes*

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ALABAMA

ALASKA

ARIZONA

ARIZ. REV. STAT. § 13-3721 (2008). Tattoos, brands, scarifications and piercings; minors; anesthesia; exception; defense; violation; classification; definitions

A. It is unlawful for a person:

1. To intentionally brand, scarify, implant, mutilate, tattoo or pierce the body of a person who is under eighteen years of age without the physical presence of the parent or legal guardian of the person requesting the brand, scar, tattoo, implant, mutilation or piercing.

2. Who tattoos or pierces the body of another person to use a needle or any substance that will leave color under the skin more than once or to use a needle that is not sterilized with equipment used by state licensed medical facilities pursuant to title 36, chapter 4.

3. To engage in the business of tattooing, branding, scarifying, implanting, mutilating or body piercing out of a home or an impermanent structure, including a tent, trailer, trunk or other impermanent structure.

4. Who is not licensed pursuant to title 32 to administer anesthesia during the course of any procedure involving the branding, scarifying, tattooing, implanting, mutilating or piercing of the body of another person.

B. Subsection A, paragraph 1 does not apply to the ear piercing of a person who has written or verbal permission from a parent or legal guardian or to procedures that are prescribed by a health care provider who is licensed pursuant to title 32.

C. It is a defense to a prosecution for a violation of subsection A, paragraph 1 that the person requested age identification and relied in good faith on the accuracy of the information contained in the identification.

D. A person who violates this section is guilty of a class 6 felony.

E. For the purposes of this section:

1. "Implant", "mutilate", "brand", "scarify" or "pierce" means to mark the skin or other body part with any indelible design, letter, scroll, figure, symbol or other mark that is placed by the aid of instruments on or under the skin or body part and that cannot be removed without a surgical procedure or any design, letter, scroll, figure, symbol or other mark done by scarring on or under the skin or other body part. Implant does not include cosmetic implants.

2. "Tattoo" means to mark the skin with any indelible design, letter, scroll, figure, symbol or any other mark that is placed by the aid of needles or other instruments upon or under the skin with any substance that will leave color under the skin and that cannot be removed, repaired or reconstructed without a surgical procedure or any design, letter, scroll, figure, symbol or other mark done by scarring upon or under the skin.

ARKANSAS

ARK. CODE ANN. § 9-13-402 (2008). Definitions

As used in this subchapter:

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

(A) Matter currently pending before a court; or

(B) Order that has been issued by a court;

(2) "Court" means any circuit court of competent jurisdiction;

(3) "Custodian" means the custodial parent, legal guardian, or lawful custodian of the child as determined by a court of competent jurisdiction in the State of Arkansas;

(4) "Dual nationality" means the simultaneous possession of citizenship in two (2) countries;

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

(B) "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. PENAL CODE § 273.4 (2009). Female genital mutilation actⁱ

(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. PENAL CODE § 273a (2009). 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. HEALTH & SAFETY CODE § 124170ii (2009). 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 (2008). Child Abuseⁱⁱ

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) (I) 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, or in a vehicle containing a child, the person knowingly engages in the manufacture or attempted manufacture of a controlled substance, as defined by section 18-18-102 (5), or knowingly 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. It shall be no defense to the crime of child abuse, as described in this subparagraph (I), that the defendant did not know a child was present, a child could be found, a child resided on the premises, or that a vehicle contained a child.

(II) A parent or lawful guardian of a child or a person having the care or custody of a child who knowingly allows the child to be present at or reside at a premises or to be in a vehicle where the parent, guardian, or person having care or custody of the child knows or reasonably should know another person is engaged in the manufacture or attempted manufacture of methamphetamine commits child abuse.

(III) A parent or lawful guardian of a child or a person having the care or custody of a child who knowingly allows the child to be present at or reside at a premises or to

be in a vehicle where the parent, guardian, or person having care or custody of the child knows or reasonably should know another person 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 methamphetamine commits child abuse.

(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; except that, if the underlying factual basis of the child abuse, which would constitute a misdemeanor, has been found by the trier of fact to include one of the acts described in paragraph (e) of this subsection (7), subsequent to a prior conviction under this section, then it is a class 5 felony.

(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; except

that, if the underlying factual basis of the child abuse, which would constitute a misdemeanor, has been found by the trier of fact to include one of the acts described in paragraph (e) of this subsection (7), subsequent to a prior conviction under this section, then it is a class 5 felony.

(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; except that, if the underlying factual basis of the child abuse, which would constitute a misdemeanor, has been found by the trier of fact to include one of the acts described in paragraph (e) of this subsection (7), subsequent to a prior conviction under this section, then it is a class 5 felony.

(II) An act of child abuse when a person acts with criminal negligence is a class 3 misdemeanor; except that, if the underlying factual basis of the child abuse, which would constitute a misdemeanor, has been found by the trier of fact to include one of the acts described in paragraph (e) of this subsection (7), subsequent to a prior conviction under this section, then it is a class 5 felony.

(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.

(e) If a person commits child abuse by engaging in one of the following acts, then such person shall be punished for a second or subsequent conviction as provided in subparagraph (V) or (VI) of paragraph (a) of this subsection (7) or as provided in subparagraph (I) or (II) of paragraph (b) of this subsection (7):

(I) A continued pattern of conduct that results in malnourishment or lack of proper medical care of the child;

(II) A continued pattern of cruel punishment or unreasonable isolation or confinement of the child;

(III) Repeated threats by such person of harm or death to the child or to a significant person in the child's life, which threats are made in the presence of the child;

(IV) A continued pattern of acts of domestic violence committed by such person, as that term is defined in section 18-6-800.3, in the presence of the child; or

(V) A continued pattern of extreme deprivation of hygienic or sanitary conditions in the child's daily living environment.

(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.

CONNECTICUT

CONN. GEN. STAT. § 53a-70a (2008). Aggravated sexual assault in the first degree: Class B or A felony

(a) A person is guilty of aggravated sexual assault in the first degree when such person commits sexual assault in the first degree as provided in section 53a-70, and in the commission of such offense (1) such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a deadly weapon, (2) with intent to disfigure the victim seriously and permanently, or to destroy, amputate or disable permanently a member or organ of the victim's body, such person causes such injury to such victim, (3) under circumstances evincing an extreme indifference to human life such person recklessly engages in conduct which creates a risk of death to the victim, and thereby causes serious physical injury to such victim, or (4) such person is aided by two or more other persons actually present. No person shall be convicted of sexual assault in the first degree and aggravated sexual assault in the first degree upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) Aggravated sexual assault in the first degree is a class B felony or, if the victim of the offense is under sixteen years of age, a class A felony. Any person found guilty under this section shall be sentenced to a term of imprisonment of which five years of the sentence

imposed may not be suspended or reduced by the court, except that, if such person committed sexual assault in the first degree by violating subdivision (1) of subsection (a) of section 53a-70, and the victim of the offense is under sixteen years of age, twenty years of the sentence imposed may not be suspended or reduced by the court. Any person found guilty under this section shall be sentenced to a period of special parole pursuant to subsection (b) of section 53a-28 of at least five years.

CONN. GEN. STAT. § 53a-70c (2008). Aggravated sexual assault of a minor: Class A felony

(a) A person is guilty of aggravated sexual assault of a minor when such person commits a violation of subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-71, 53a-86, 53a-87 or 53a-196a and the victim of such offense is under thirteen years of age, and (1) such person kidnapped or illegally restrained the victim, (2) such person stalked the victim, (3) such person used violence to commit such offense against the victim, (4) such person caused serious physical injury to or disfigurement of the victim, (5) there was more than one victim of such offense under thirteen years of age, (6) such person was not known to the victim, or (7) such person has previously been convicted of a violent sexual assault.

(b) Aggravated sexual assault of a minor is a class A felony and any person found guilty under this section shall, for a first offense, be sentenced to a term of imprisonment of twenty-five years which may not be suspended or reduced by the court and, for any subsequent offense, be sentenced to a term of imprisonment of fifty years which may not be suspended or reduced by the court.

DELAWARE

DEL. CODE ANN. tit. 11, § 780 (2009). Female genital mutilation

(a) 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.

(b) Female genital mutilation is a class E felony.

(c) It is not a defense to a violation that the conduct described in subsection (a) of this

section 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.

(d) 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.

DISTRICT OF COLUMBIA

FLORIDA

FLA. STAT. § 794.08 (2009). Female genital mutilation

(1) As used in this section, the term "female genital mutilation" means the circumcising, excising, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of a female person.

(2) A person who knowingly commits, or attempts to commit, female genital mutilation upon a female person younger than 18 years of age commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who knowingly removes, or causes or permits the removal of, a female person younger than 18 years of age from this state for purposes of committing female genital mutilation commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who is a parent, a guardian, or in a position of familial or custodial authority to a female person younger than 18 years of age and who knowingly consents to or permits the female genital mutilation of that female person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) This section does not apply to procedures performed by or under the direction of a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a registered nurse licensed under part I of chapter 464, a practical nurse licensed under part I of chapter 464, an advanced registered nurse practitioner licensed under part I of chapter 464, a midwife licensed under chapter 467, or a physician assistant licensed under chapter 458 or chapter 459 when necessary to preserve the physical health of a female person. This section also does not apply to any autopsy or limited dissection conducted pursuant to chapter 406.

(6) Consent of a female person younger than 18 years of age or the consent of a parent, guardian, or person who is in a position of familial or custodial authority to the female person younger than 18 years of age is not a defense to the offense of female genital mutilation.

GEORGIA

GA. CODE ANN. § 16-5-27 (2009). 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.

HAWAII

IDAHO

ILLINOIS

325 ILL. COMP. STAT. 5/3 (2009). Definitions

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

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

"Department" means Department of Children and Family Services.

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"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:

(a) inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(b) creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended [[720 ILCS 5/1-1](#) et seq.], and extending those definitions of sex offenses to include children under 18 years of age;

(d) commits or allows to be committed an act or acts of torture upon such child;

(e) inflicts excessive corporal punishment;

(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; or

(g) causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act [[720 ILCS 570/102](#)] in violation of Article IV of the Illinois Controlled Substances Act [[720 ILCS 570/401](#) et seq.] or in violation of the Methamphetamine Control and Community Protection Act [[720 ILCS 646/1](#) et seq.], except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act [[720 ILCS 570/301](#) et seq.] and are dispensed to such child in a manner that substantially complies with the prescription.

A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act [[325 ILCS 2/1](#) et seq.].

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who has been provided with interim crisis intervention services under Section 3-5 of the Juvenile Court Act of 1987 [[705 ILCS 405/3-5](#)] and whose parent, guardian, or custodian refuses to permit the child to return home and no other living arrangement agreeable to the parent, guardian, or custodian can be made, and the parent, guardian, or custodian has not made any other appropriate living arrangement for the child; or who is a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act [[720 ILCS 570/102](#)] or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of

medical treatment administered to the mother or the newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act [[325 ILCS 2/1](#) et seq.]. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4 of this Act [[325 ILCS 5/4](#)]. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of The School Code, as amended [[105 ILCS 5/26-1](#) et seq.].

"Child Protective Service Unit" means certain specialized State employees of the Department assigned by the Director to perform the duties and responsibilities as provided under Section 7.2 of this Act [[325 ILCS 5/7.2](#)].

"Person responsible for the child's welfare" means the child's parent; guardian; foster parent; relative caregiver; any person responsible for the child's welfare in a public or private residential agency or institution; any person responsible for the child's welfare within a public or private profit or not for profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy, and volunteers or support personnel in any setting where children may be subject to abuse or neglect.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated for such custody by the Department, subject to review by the Court, including a licensed foster home, group home, or other institution; but such place shall not be a jail or other place for the detention of criminal or juvenile offenders.

"An unfounded report" means any report made under this Act for which it is determined after an investigation that no credible evidence of abuse or neglect exists.

"An indicated report" means a report made under this Act if an investigation determines that credible evidence of the alleged abuse or neglect exists.

"An undetermined report" means any report made under this Act in which it was not possible to initiate or complete an investigation on the basis of information provided to the Department.

"Subject of report" means any child reported to the central register of child abuse and neglect established under Section 7.7 of this Act [[325 ILCS 5/7.7](#)] and his or her parent, guardian or other person responsible who is also named in the report.

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs.

730 ILL. COMP. STAT. 5/5-8-1 (2009). Sentence of Imprisonment for Felony

Sec. 5-8-1. Natural life imprisonment; mandatory supervised release. (a) Except as otherwise provided in the statute defining the offense or in Article 4.5 of Chapter V [[730 ILCS 5/5-4.5-5](#) et seq.], a sentence of imprisonment for a felony shall be a determinate sentence set by the court under this Section, according to the following limitations:

(1) for first degree murder,

(a) (blank)

(b) if a trier of fact finds beyond a reasonable doubt that the murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty or, except as set forth in subsection (a)(1)(c) of this Section, that any of the aggravating factors listed in subsection (b) of Section 9-1 of the Criminal Code of 1961 [[720 ILCS 5/9-1](#)] are present, the court may sentence the defendant to a term of natural life imprisonment, or

(c) the court shall sentence the defendant to a term of natural life imprisonment when the death penalty is not imposed if the defendant,

(i) has previously been convicted of first degree murder under any state or federal law, or

(ii) is a person who, at the time of the commission of the murder, had attained the age of 17 or more and is found guilty of murdering an individual under 12 years of age; or, irrespective of the defendant's age at the time of the commission of the offense, is found guilty of murdering more than one victim, or

(iii) is found guilty of murdering a peace officer, fireman, or emergency management worker when the peace officer, fireman, or emergency management worker was killed in the course of performing his official duties, or to prevent the peace officer or fireman from performing his official duties, or in retaliation for the peace officer, fireman, or emergency management worker from performing his official duties, and the defendant knew or should have known that the murdered individual was a peace officer, fireman, or emergency management worker, or

(iv) is found guilty of murdering an employee of an institution or facility of the Department of Corrections, or any similar local correctional agency, when the employee

was killed in the course of performing his official duties, or to prevent the employee from performing his official duties, or in retaliation for the employee performing his official duties, or

(v) is found guilty of murdering an emergency medical technician -- ambulance, emergency medical technician -- intermediate, emergency medical technician -- paramedic, ambulance driver or other medical assistance or first aid person while employed by a municipality or other governmental unit when the person was killed in the course of performing official duties or to prevent the person from performing official duties or in retaliation for performing official duties and the defendant knew or should have known that the murdered individual was an emergency medical technician -- ambulance, emergency medical technician -- intermediate, emergency medical technician -- paramedic, ambulance driver, or other medical assistant or first aid personnel, or

(vi) is a person who, at the time of the commission of the murder, had not attained the age of 17, and is found guilty of murdering a person under 12 years of age and the murder is committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, or

(vii) is found guilty of first degree murder and the murder was committed by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961 [[720 ILCS 5/2-3.5](#)].

For purposes of clause (v), "emergency medical technician -- ambulance", "emergency medical technician -- intermediate", "emergency medical technician -- paramedic", have the meanings ascribed to them in the Emergency Medical Services (EMS) Systems Act [[210 ILCS 50/1](#) et seq.].

(d)(i) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;

(ii) if, during the commission of the offense, the person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the court;

(iii) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(2) (blank)

(2.5) for a person convicted under the circumstances described in paragraph (3) of subsection (b) of Section 12-13 [[720 ILCS 5/12-13](#)], paragraph (2) of subsection (d) of Section 12-14 [[720 ILCS 5/12-14](#)], paragraph (1.2) of subsection (b) of Section 12-14.1

[\[720 ILCS 5/12-14.1\]](#), or paragraph (2) of subsection (b) of Section 12-14.1 of the Criminal Code of 1961 [\[720 ILCS 5/12-14.1\]](#), the sentence shall be a term of natural life imprisonment

(b) (Blank.)

(c) (Blank.)

(d) Subject to earlier termination under Section 3-3-8 [\[730 ILCS 5/3-3-8\]](#), the parole or mandatory supervised release term shall be as follows:

(1) for first degree murder or a Class X felony except for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or after the effective date of this amendatory Act of the 94th General Assembly [\[P.A. 94-715\]](#), and except for the offense of aggravated child pornography under Section 11-20.3 of the Criminal Code of 1961 [\[720 ILCS 5/11-20.3\]](#), if committed on or after January 1, 2009, 3 years;

(2) for a Class 1 felony or a Class 2 felony except for the offense of criminal sexual assault if committed on or after the effective date of this amendatory Act of the 94th General Assembly [\[P.A. 94-715\]](#), and except for the offenses of manufacture and dissemination of child pornography under clauses (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code of 1961 [\[720 ILCS 5/11-20.1\]](#), if committed on or after January 1, 2009, 2 years;

(3) for a Class 3 felony or a Class 4 felony, 1 year;

(4) for defendants who commit the offense of predatory criminal sexual assault of a child, aggravated criminal sexual assault of a child, aggravated criminal sexual assault, or criminal sexual assault, on or after the effective date of this amendatory Act of the 94th General Assembly [\[P.A. 94-715\]](#), or who commit the offense of aggravated child pornography, manufacture of child pornography, or dissemination of child pornography after January 1, 2009, the term of mandatory supervised release shall range from a minimum of 3 years to a maximum of the natural life of the defendant;

(5) if the victim is under 18 years of age, for a second or subsequent offense of aggravated criminal sexual abuse or felony criminal sexual abuse, 4 years, at least the first 2 years of which the defendant shall serve in an electronic home detention program under Article 8A of Chapter V of this Code [\[730 ILCS 5/5-8A-1](#) et seq.].

(e) (Blank.)

(f) (Blank.)

720 ILL. COMP. STAT. 5/12-34 (2009). 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 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.

INDIANA

IOWA

KANSAS

KENTUCKY

LOUISIANA

MAINE

MARYLAND

MD. CODE ANN., HEALTH-GEN. § 20-601 (2009). 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 (2009). 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 (2009). 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.

MASSACHUSETTS

MICHIGAN

MICH. COMP. LAWS § 750.86 (2009). Assault with intent to maim

Assault with intent to maim-Any person who shall assault another with intent to maim or disfigure his person by cutting out or maiming the tongue, putting out or destroying an eye, cutting or tearing off an ear, cutting or slitting or mutilating the nose or lips or cutting off or disabling a limb, organ or member, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

MINNESOTA

MINN. STAT. § 609.2245 (2008). Female genital mutilation; penaltiesⁱⁱⁱ

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 (2008). 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.

MISSISSIPPI

MISSOURI

MO. REV. STAT. § 558.011 (2009). Sentence of imprisonment, terms -- conditional release

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

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;

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

(3) For a class C felony, a term of years not to exceed seven years;

(4) For a class D felony, a term of years not to exceed four years;

(5) For a class A misdemeanor, a term not to exceed one year;

(6) For a class B misdemeanor, a term not to exceed six months;

(7) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.

3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under [section 557.036, RSMo](#), or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in [section 556.061, RSMo](#), and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional

release term of any term imposed under [section 557.036, RSMo](#), shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in [section 217.670, RSMo](#). If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

MO. REV. STAT. § 568.065 (2009). 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.

MONTANA

NEBRASKA

NEVADA

NEV. REV. STAT. § 200.5083 (2009). 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 HAMPSHIRE

NEW JERSEY

NEW MEXICO

N.M. STAT. § 30-9-10 (2008). Definitions

As used in [Sections 30-9-10 through 30-9-16 NMSA](#) 1978:

A. "force or coercion" means:

(1) the use of physical force or physical violence;

(2) the use of threats to use physical violence or physical force against the victim or another when the victim believes that there is a present ability to execute the threats;

(3) the use of threats, including threats of physical punishment, kidnapping, extortion or retaliation directed against the victim or another when the victim believes that there is an ability to execute the threats;

(4) the perpetration of criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep or otherwise physically helpless or suffers from a mental condition that renders the victim incapable of understanding the nature or consequences of the act; or

(5) the perpetration of criminal sexual penetration or criminal sexual contact by a psychotherapist on his patient, with or without the patient's consent, during the course of psychotherapy or within a period of one year following the termination of psychotherapy.

Physical or verbal resistance of the victim is not an element of force or coercion;

B. "great mental anguish" means psychological or emotional damage that requires psychiatric or psychological treatment or care, either on an inpatient or outpatient basis, and is characterized by extreme behavioral change or severe physical symptoms;

C. "patient" means a person who seeks or obtains psychotherapy;

D. "personal injury" means bodily injury to a lesser degree than great bodily harm and includes, but is not limited to, disfigurement, mental anguish, chronic or recurrent pain, pregnancy or disease or injury to a sexual or reproductive organ;

E. "position of authority" means that position occupied by a parent, relative, household member, teacher, employer or other person who, by reason of that position, is able to exercise undue influence over a child;

F. "psychotherapist" means a person who is or purports to be a:

(1) licensed physician who practices psychotherapy;

(2) licensed psychologist;

(3) licensed social worker;

(4) licensed nurse;

(5) counselor;

(6) substance abuse counselor;

(7) psychiatric technician;

(8) mental health worker;

(9) marriage and family therapist;

(10) hypnotherapist; or

(11) minister, priest, rabbi or other similar functionary of a religious organization acting in his role as a pastoral counselor;

G. "psychotherapy" means professional treatment or assessment of a mental or an emotional illness, symptom or condition;

H. "school" means any public or private school, including the New Mexico military institute, the New Mexico school for the blind and visually impaired, the New Mexico school for the deaf, the New Mexico boys' school, the New Mexico youth diagnostic and development center, the Los Lunas medical center, the Fort Stanton hospital, the New Mexico behavioral health institute at Las Vegas and the Carrie Tingley crippled children's hospital, that offers a program of instruction designed to educate a person in a particular place, manner and subject area. "School" does not include a college or university; and

I. "spouse" means a legal husband or wife, unless the couple is living apart or either husband or wife has filed for separate maintenance or divorce.

N.M. UNIFORM JURY INSTRUCT. 14-906 (2009). Criminal sexual contact; use of physical force or physical violence; personal injury; essential elements

For you to find the defendant guilty of criminal sexual contact causing personal injury [as charged in Count ____], the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant touched or applied force to the unclothed [body part] of the victim without victim's consent; [OR] caused victim to touch the the defendant;
2. The defendant used physical force or physical violence;
3. The defendant's acts resulted in...
4. The defendant's act was unlawful
5. Victim was 18 years of age or older;
6. This happened in New Mexico on or about the ____ day of ____,_____.

USE NOTE

1. Insert the count number if more than one count is charged.
2. Use only the applicable alternatives.
3. Name one or more of the following parts of the anatomy touched: "groin", "anus", "buttocks", "breast", "mons pubis", "penis", "testicles", "mons veneris", "vulva" or "vagina." When definitions are provided in UJI 14-981, they must be given after this instruction; otherwise, no definition need be given unless the jury requests one.
4. Name victim and describe personal injury or injuries. *See* Section 30-9-10D NMSA 1978 for types of personal injuries.
5. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness of the defendant's actions. If this element is given, UJI 14-132, "unlawful defined", must be given after this instruction. [As amended, effective September 1, 1994; January 20, 2005.]

NEW YORK

N.Y. PENAL LAW § 130.85 (2009). 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 the 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 CAROLINA

N.C. GEN. STAT. § 14-27.4 (2009). First-degree sexual offense

(a) A person is guilty of a sexual offense in the first degree if the person engages in a sexual act:

(1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

(2) With another person by force and against the will of the other person, and:

a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. Inflicts serious personal injury upon the victim or another person; or

c. The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

N.C. GEN. STAT. § 14-32.4 (2009). Assault inflicting serious bodily injury; strangulation; penalties

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

NORTH DAKOTA

N.D. CENT. CODE § 12.1-36.01 (2009). 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.

OHIO

OKLAHOMA

OKLA. STAT. tit. 21, § 751 (2009). Maiming defined

Every person who, with premeditated design to injure another, inflicts upon his person any injury which disfigures his personal appearance or disables any member or organ of his body or seriously diminishes his physical vigor, is guilty of maiming.

OKLA. STAT. tit. 21, § 754 (2009). Means and manner of maiming immaterial

To constitute maiming it is immaterial by what means or instrument, or in what manner the injury was inflicted.

OREGON

OR. REV. STAT. § 163.207 (2007). 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 (2007). 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.

PENNSYLVANIA

RHODE ISLAND

R.I. GEN. LAWS § 11-5-2 (2009). Felony assault^{iv}

(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.

SOUTH CAROLINA

SOUTH DAKOTA

TENNESSEE

TENN. CODE ANN. § 39-13-110 (2009). Female genital mutilation^v

(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 (2009). 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 (2009). Prevention of International Parental Child Abduction

(a) To determine whether there is a risk of the international abduction of a child by a parent of the child, the court shall consider evidence that the parent:

(1) has taken, enticed away, kept, withheld, or concealed a child in violation of another person's right of possession of or access to the child, unless the parent presents evidence that the parent believed in good faith that the parent's conduct was necessary to avoid imminent harm to the child;

(2) has previously threatened to take, entice away, keep, withhold, or conceal a child in violation of another person's right of possession of or access to the child;

(3) lacks financial reason to stay in the United States, including evidence that the parent is financially independent, is able to work outside of the United States, or is unemployed;

(4) has recently engaged in planning activities that could facilitate the removal of the child from the United States by the parent, including:

(A) quitting a job;

(B) selling a primary residence;

(C) terminating a lease;

(D) closing bank accounts;

(E) liquidating other assets;

(F) hiding or destroying documents;

(G) applying for a passport or visa for the parent or the child; or

(H) applying to obtain the child's birth certificate or school or medical records;

(5) has a history of domestic violence that the court is required to consider under Section 153.004; or

(6) has a criminal history or a history of violating court orders.

(b) 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 shall also consider evidence regarding the following factors to evaluate the risk of international abduction of the child by a parent:

(1) whether the parent has strong familial, emotional, or cultural ties to another country, particularly a country that is not a signatory to or compliant with the Hague Convention on the Civil Aspects of International Child Abduction; and

(2) whether the parent lacks strong ties to the United States, regardless of whether the parent is a citizen or permanent resident of the United States.

(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:

(1) whether the parent is undergoing a change in status with the United States Immigration and Naturalization Service that would adversely affect that parent's ability to legally remain in the United States;

(2) whether the parent's application for United States citizenship has been denied by the United States Immigration and Naturalization Service;

(3) whether the parent has forged or presented misleading or false evidence to obtain a visa, a passport, a social security card, or any other identification card or has made any misrepresentation to the United States government; or

(4) whether the foreign country to which the parent has ties:

(A) presents obstacles to the recovery and return of a child who is abducted to the country from the United States;

(B) has any legal mechanisms for immediately and effectively enforcing an order regarding the possession of or access to the child issued by this state;

(C) has local laws or practices that would:

(i) enable the parent to prevent the child's other parent from contacting the child without due cause;

(ii) restrict the child's other parent from freely traveling to or exiting from the country because of that parent's gender, nationality, or religion; or

(iii) restrict the child's ability to legally leave the country after the child reaches the age of majority because of the child's gender, nationality, or religion;

(D) is included by the United States Department of State on a list of state sponsors of terrorism;

(E) is a country for which the United States Department of State has issued a travel

warning to United States citizens regarding travel to the country;

(F) has an embassy of the United States in the country;

(G) is engaged in any active military action or war, including a civil war;

(H) is a party to and compliant with the Hague Convention on the Civil Aspects of International Child Abduction according to the most recent report on compliance issued by the United States Department of State;

(I) provides for the extradition of a parental abductor and the return of the child to the United States; or

(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.

UTAH

UTAH CODE ANN. § 76-5-405 (2009). Aggravated sexual assault -- Penalty

(1) A person commits aggravated sexual assault if:

(a) in the course of a rape, object rape, forcible sodomy, or forcible sexual abuse, the actor:

(i) uses, or threatens the victim with the use of, a dangerous weapon as defined in Section 76-1-601;

(ii) compels, or attempts to compel, the victim to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person; or

(iii) is aided or abetted by one or more persons;

(b) in the course of an attempted rape, attempted object rape, or attempted forcible sodomy, the actor:

(i) causes serious bodily injury to any person;

(ii) uses, or threatens the victim with the use of, a dangerous weapon as defined in

Section 76-1-601;

(iii) attempts to compel the victim to submit to rape, object rape, or forcible sodomy, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person; or

(iv) is aided or abetted by one or more persons; or

(c) in the course of an attempted forcible sexual abuse, the actor:

(i) causes serious bodily injury to any person;

(ii) uses, or threatens the victim with the use of, a dangerous weapon as defined in Section 76-1-601;

(iii) attempts to compel the victim to submit to forcible sexual abuse, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person; or

(iv) is aided or abetted by one or more persons.

(2) Aggravated sexual assault is a first degree felony, punishable by a term of imprisonment of:

(a) for an aggravated sexual assault described in Subsection (1)(a):

(i) except as provided in Subsection (2)(a)(ii) or (3)(a), not less than 15 years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense;

(b) for an aggravated sexual assault described in Subsection (1)(b):

(i) except as provided in Subsection (2)(b)(ii) or (4)(a), not less than ten years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense; or

(c) for an aggravated sexual assault described in Subsection (1)(c):

(i) except as provided in Subsection (2)(c)(ii) or (5)(a), not less than six years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense.

(3) (a) If, when imposing a sentence under Subsection (2)(a)(i), a court finds that a lesser term than the term described in Subsection (2)(a)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(i) ten years and which may be for life; or

(ii) six years and which may be for life.

(b) The provisions of Subsection (3)(a) do not apply when a person is sentenced under Subsection (2)(a)(ii).

(4) (a) If, when imposing a sentence under Subsection (2)(b)(i), a court finds that a lesser term than the term described in Subsection (2)(b)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.

(b) The provisions of Subsection (4)(a) do not apply when a person is sentenced under Subsection (2)(b)(ii).

(5) (a) If, when imposing a sentence under Subsection (2)(c)(i), a court finds that a lesser term than the term described in Subsection (2)(c)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than three years and which may be for life.

(b) The provisions of Subsection (5)(a) do not apply when a person is sentenced under Subsection (2)(c)(ii).

(6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

VERMONT

VIRGINIA

WASHINGTON

WASH. REV. CODE § 9.94A.835 (2009). Special allegation -- Sexual motivation -- Procedures

(1) The prosecuting attorney shall file a special allegation of sexual motivation in every criminal case, felony, gross misdemeanor, or misdemeanor, other than sex offenses as defined in *RCW 9.94A.030(38) (a) or (c) when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact finder.

(2) In a criminal case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the accused committed the crime with a sexual motivation. The court shall make a finding of fact of whether or not a sexual motivation was present at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation. This finding shall not be applied to sex offenses as defined in *RCW 9.94A.030(38) (a) or (c).

(3) The prosecuting attorney shall not withdraw the special allegation of sexual motivation without approval of the court through an order of dismissal of the special allegation. The court shall not dismiss this special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful.

WASH. REV. CODE § 9A.36.011 (2009). Assault in the first degree

(1) A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm:

(a) Assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death; or

(b) Administers, exposes, or transmits to or causes to be taken by another, poison, the human immunodeficiency virus as defined in chapter 70.24 RCW, or any other destructive or noxious substance; or

(c) Assaults another and inflicts great bodily harm.

(2) Assault in the first degree is a class A felony.

WASH. REV. CODE § 9A.36.120 (2009). Assault of a child in the first degree

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the first degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the first degree, as defined in RCW 9A.36.011, against the child; or

(b) Intentionally assaults the child and either:

(i) Recklessly inflicts great bodily harm; or

(ii) Causes substantial bodily harm, and the person has previously engaged in a pattern or practice either of (A) assaulting the child which has resulted in bodily harm that is greater than transient physical pain or minor temporary marks, or (B) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the first degree is a class A felony.

WEST VIRGINIA

W. VA. CODE § 61-8D-3a (2009). 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 (2008). 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.

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

WYOMING

American Territories

AMERICAN SAMOA

GUAM

PUERTO RICO

VIRGIN ISLANDS

FEDERAL LEGISLATION

18 U.S.C.S. § 116 (2009). 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.

8 U.S.C.S. § 1374 (2009). 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) 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.

ⁱ 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.

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

ⁱⁱⁱ Statute applies to both women and girls.

^{iv} Statute applies to both women and girls.

^v Statute applies to both women and girls.