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**SENATE BILL 5453**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Keiser, Dhingra, Cleveland, Nguyen, Saldaña, and Valdez

AN ACT Relating to female genital mutilation; amending RCW 18.130.180 and 9A.04.080; adding new sections to chapter 9A.36 RCW; adding a new section to chapter 18.130 RCW; adding a new section to chapter 43.70 RCW; creating a new section; prescribing penalties; providing effective dates; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that over 500,000 women in the United States are at risk of or have undergone female genital mutilation. The existence, incidence, and effects of female genital mutilation is often shrouded in secrecy. Federal law prohibits the performance of female genital mutilation in the United States.

(2) The legislature intends to create a private right of action for victims of female genital mutilation and create a disciplinary violation under the uniform disciplinary act. The legislature further intends to establish education and outreach initiatives to prevent female genital mutilation, and provide care for victims of female genital mutilation.

NEW SECTION. **Sec.**  A new section is added to chapter 9A.36 RCW to read as follows:

(1) A victim of female genital mutilation under section 6 of this act may bring a civil cause of action against the person who committed the female genital mutilation for economic and noneconomic damages, punitive damages, and reasonable attorneys' fees and costs incurred in bringing the action.

(2) A civil cause of action for female genital mutilation under this section must be commenced within 10 years of the acts alleged to have caused the injury. However, the time limit for commencement of an action under this section shall be tolled for a minor until the minor reaches the age of 18 years.

(3) For purposes of this section, "female genital mutilation" means any procedure performed for nonmedical reasons that involves partial or total removal of, or other injury to, the external female genitalia, including but not limited to a clitoridectomy or the partial or total removal of the clitoris or the prepuce or clitoral hood, excision or the partial or total removal (with or without excision of the clitoris) of the labia minora or the labia majora, or both, infibulation or the narrowing of the vaginal opening (with or without excision of the clitoris), or other procedures that are harmful to the external female genitalia, including pricking, incising, scraping, or cauterizing the genital area.

NEW SECTION. **Sec.**  A new section is added to chapter 18.130 RCW to read as follows:

(1) A health care provider licensed under this title shall not perform any procedure constituting female genital mutilation on a minor.

(2) A licensed health care provider who violates subsection (1) of this section is subject to discipline under this chapter.

(3) For purposes of this section:

(a) "Female genital mutilation" means any procedure performed for nonmedical reasons that involves partial or total removal of, or other injury to, the external female genitalia, including but not limited to a clitoridectomy or the partial or total removal of the clitoris or the prepuce or clitoral hood, excision or the partial or total removal (with or without excision of the clitoris) of the labia minora or the labia majora, or both, infibulation or the narrowing of the vaginal opening (with or without excision of the clitoris), or other procedures that are harmful to the external female genitalia, including pricking, incising, scraping, or cauterizing the genital area; and

(b) "Minor" means any person under the age of 18.

**Sec.**  RCW 18.130.180 and 2021 c 157 s 7 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW or a pattern of violations of RCW 41.05.700(8), 48.43.735(8), 48.49.020, 48.49.030, 71.24.335(8), or 74.09.325(8);

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

(26) Violation of RCW 18.130.420;

(27) Performing conversion therapy on a patient under age eighteen;

(28) Violation of RCW 18.130.430;

(29) Violation of section 3 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.70 RCW to read as follows:

(1) The department must establish an education program for the prevention of female genital mutilation. The program must be designed to provide information about the health risks and emotional trauma inflicted by the practice of female genital mutilation, as well as the civil and criminal penalties for committing female genital mutilation.

(2) The department must develop policies and procedures to promote partnerships with relevant stakeholders to prevent female genital mutilation and to protect and provide assistance to victims of female genital mutilation, including partnerships with:

(a) Relevant state agencies that provide services to persons at risk of female genital mutilation or persons who have been subjected to female genital mutilation;

(b) The department of children, youth, and families;

(c) The Washington state patrol;

(d) The attorney general; and

(e) Other government entities and nongovernmental organizations.

(3) The department must make recommendations and develop procedures regarding strategies and methodologies for training health care providers as defined in RCW 70.02.010 on recognizing the risk factors associated with female genital mutilation and the signs that a person may be a victim of female genital mutilation.

(4) Subject to the availability of amounts appropriated for this specific purpose, the department may contract with nongovernmental organizations, entities, or persons with experience working with victims of female genital mutilation to provide training and materials and other services as the department deems necessary.

(5) The department may adopt rules necessary to implement this section.

(6) For purposes of this section, "female genital mutilation" has the meaning provided in section 3 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 9A.36 RCW to read as follows:

(1) Except as provided in subsection (3) of this section, a person is guilty of female genital mutilation when the person knowingly:

(a) Commits female genital mutilation on a minor; or

(b) Transports a minor, or causes or permits the transport of a minor, with the intent to commit, or with the intent that another person will commit, female genital mutilation on the minor.

(2) Female genital mutilation is a gross misdemeanor.

(3) A medical procedure is not a violation of this section if it is performed by a licensed health care provider and is necessary to the health of the minor.

(4) It is not a defense to a violation of this section that a person believes the person's actions were conducted as a matter of custom or ritual, or that the minor on whom female genital mutilation was performed consented to female genital mutilation, or that the minor's parent or guardian consented to female genital mutilation.

(5) For the purposes of this section:

(a) "Female genital mutilation" has the meaning provided in section 2 of this act; and

(b) "Minor" means any person under the age of 18.

**Sec.**  RCW 9A.04.080 and 2022 c 282 s 4 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4));

(vii) Rape in the first degree (RCW 9A.44.040) if the victim is under the age of sixteen;

(viii) Rape in the second degree (RCW 9A.44.050) if the victim is under the age of sixteen;

(ix) Rape of a child in the first degree (RCW 9A.44.073);

(x) Rape of a child in the second degree (RCW 9A.44.076);

(xi) Rape of a child in the third degree (RCW 9A.44.079);

(xii) Sexual misconduct with a minor in the first degree (RCW 9A.44.093);

(xiii) Custodial sexual misconduct in the first degree (RCW 9A.44.160);

(xiv) Child molestation in the first degree (RCW 9A.44.083);

(xv) Child molestation in the second degree (RCW 9A.44.086);

(xvi) Child molestation in the third degree (RCW 9A.44.089); and

(xvii) Sexual exploitation of a minor (RCW 9.68A.040).

(b) Except as provided in (a) of this subsection, the following offenses may not be prosecuted more than twenty years after its commission:

(i) Rape in the first degree (RCW 9A.44.040);

(ii) Rape in the second degree (RCW 9A.44.050); or

(iii) Indecent liberties (RCW 9A.44.100).

(c) The following offenses may not be prosecuted more than ten years after its commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

(iii) Rape in the third degree (RCW 9A.44.060);

(iv) Attempted murder; or

(v) Trafficking under RCW 9A.40.100.

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

(i) RCW 9.68A.100 (commercial sexual abuse of a minor);

(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor);

(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor); or

(iv) RCW 9A.64.020 (incest).

(e) A violation of section 6 of this act may be prosecuted up to 10 years after its commission, or if committed against a victim under the age of 18, up to the victim's 28th birthday, whichever is later.

(f) The following offenses may not be prosecuted more than six years after its commission or discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception;

(v) Theft from a vulnerable adult under RCW 9A.56.400;

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010; or

(vii) Violations of RCW 82.32.290 (2)(a)(iii) or (4).

((~~(f)~~)) (g) The following offenses may not be prosecuted more than five years after its commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

((~~(g)~~)) (h) Bigamy may not be prosecuted more than three years after the time specified in RCW 9A.64.010.

((~~(h)~~)) (i) A violation of RCW 9A.56.030 may not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

((~~(i)~~)) (j) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

((~~(j)~~)) (k) No gross misdemeanor, except as provided under (e) of this subsection, may be prosecuted more than two years after its commission.

((~~(k)~~)) (l) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or two years from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023.

NEW SECTION. **Sec.**  Section 6 and 7 of this act take effect July 1, 2025.

**--- END ---**