

HOUSE BILL REPORT

SSB 5453

As Reported by House Committee On:
Community Safety, Justice, & Reentry

Title: An act relating to female genital mutilation.

Brief Description: Concerning female genital mutilation.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Keiser, Dhingra, Cleveland, Nguyen, Saldaña and Valdez).

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 3/13/23, 3/23/23 [DP].

Brief Summary of Substitute Bill

- Establishes a civil cause of action for victims of female genital mutilation.
- Makes it unprofessional conduct for a health care professional to perform female genital mutilation on a minor and requires the Department of Health to establish an education program to prevent female genital mutilation.
- Includes female genital mutilation in the definition of child "abuse or neglect" that must be reported by a mandatory reporter.
- Creates the crime of Female Genital Mutilation.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Lena Langer (786-7192).

Background:

Unprofessional Conduct of Health Care Providers.

The Department of Health (DOH) certifies, licenses, and regulates dozens of health professions in Washington. All health professions are subject to the Uniform Disciplinary Act (UDA). Under the UDA, the DOH or a professional board or commission investigates unprofessional conduct claims and may take disciplinary action against a licensed health care provider. Disciplining actions may include fines, license revocations, and restrictions on practice.

Mandatory Reporting of Child Abuse or Neglect.

State law requires certain individuals to report child abuse or neglect if there is reasonable cause to believe that a child has suffered abuse or neglect. These individuals must report this information to a law enforcement agency or to the Department of Children, Youth, and Families. Mandatory reporters include professional school personnel, registered or licensed nurses, social service counselors, psychologists, and licensed or certified child-care providers.

Damages.

Economic damages are objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities.

Noneconomic damages are subjective, nonmonetary losses, including, but not limited to: pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship.

Classification of Crimes.

Crimes are classified as misdemeanors, gross misdemeanors, or class A, B, or C felonies. While there are exceptions, the classification of a crime generally determines the maximum term of confinement and fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

Classification	Maximum Confinement	Maximum Fine
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000

Class A Felony	Life	\$50,000
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Summary of Bill:

Definition of Female Genital Mutilation.

"Female genital mutilation" is defined as 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.

Civil Cause of Action.

A minor victim of female genital mutilation may bring a civil action against the person who committed female genital mutilation on the minor for economic and noneconomic damages, punitive damages, reasonable attorneys' fees, and court costs. A civil action must be brought within 10 years of the injury. This statute of limitations is tolled for a minor until the minor reaches the age of 18.

Unprofessional Conduct of Health Care Providers.

It is unprofessional conduct under the UDA for a licensed health care provider to perform female genital mutilation on a minor.

Mandatory Reporting of Child Abuse or Neglect.

Abuse or neglect that must be reported by mandatory reporters is expanded to include female genital mutilation.

Education Program.

The DOH must establish an education program for the prevention of female genital mutilation. The program must 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. The DOH must develop policies and procedures to promote partnerships with relevant stakeholders to prevent female genital mutilation, and to train health care providers on recognizing factors associated with female genital mutilation and signs that a person may be victim of female genital mutilation.

Crime of Female Genital Mutilation.

The crime of Female Genital Mutilation is created. A person commits Female Genital

Mutilation when the person knowingly:

- commits female genital mutilation on a minor; or
- transports a minor, or causes or permits the transport of a minor, for the purpose of the performance of female genital mutilation on the minor.

Female Genital Mutilation is a gross misdemeanor. It is not a defense to Female Genital Mutilation that a person believes that their actions were conducted as a matter of culture, custom, religion, or ritual, or that a minor or the minor's parents or guardians consented to female genital mutilation.

A medical procedure does not constitute Female Genital Mutilation if it is performed by a licensed health care provider, and it is necessary for the health of the minor.

A criminal prosecution for Female Genital Mutilation must be brought within 10 years after the commission of the crime, or if the crime was committed against a victim under the age of 18, up to the victim's twenty-eighth birthday, whichever is later.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Washington is one of only 10 states in the country that does not have a law banning female genital mutilation (FGM). Female genital mutilation exists in different cultures and countries, but it is not something that should be practiced in Washington. Female genital mutilation leaves both physical and emotional scars. The practice of FGM must end in Washington so girls can grow into their full potential without the trauma or health implications that come from FGM. Practices like FGM limit girls' ability to fully participate in the social, political, and economic sectors of Washington. Female genital mutilation is a painful practice for those that experience it. Female genital mutilation can lead to many physical complications, as well as post-traumatic stress. It is a human rights violation. Children need to be protected from this practice.

The procedure can produce lifelong physical and psychological consequences, and even cause death. Female genital mutilation should be criminalized because, just like other acts of violence, there needs to be a deterrence from committing the practice. This bill takes a good approach and sends a message that FGM has no place in Washington. It includes both criminalizing the practice of FGM and also invests in resources around education. The funds and resources included in this bill will help create more awareness of the harmful practice of FGM. The bill will also help potential victims lead safer lives.

Approximately 60 percent of women moving to Washington from countries with a high prevalence of FGM have undergone FGM. Girls born to parents from countries with a high prevalence of FGM have a rate of about 10 percent of being affected by FGM. There are 25,000 females in Washington that have been affected by FGM. These statistics show that this law is necessary.

Female genital mutilation is not medically or religiously mandated. The decision of whether a girl is going to undergo FGM is usually made by a group of decisionmakers. In such situations, having a law against the practice is taken into consideration and has a crucial impact on the continuing prevalence of the practice. The education and outreach component of the bill is critical.

While there is logic to ensuring gender parity under the law, current Centers of Disease Control and Prevention and World Health Organization policies do not recommend laws banning male circumcision.

(Opposed) None.

(Other) Equal protection rights preclude gender specific genital mutilation laws. This bill may violate the equal protection clause of the Washington Constitution. This bill is not needed because the acts specified in the bill could be prosecuted under another crime.

Persons Testifying: (In support) Senator Karen Keiser, prime sponsor; Maryum Saifee; Bettina Duncan; Maria Viola Sanchez, STOP THE CUT NOW! Eradicating Female Genital Mutilation; Absa Samba; Severina Lemachokoti, Washington Female Genital Mutilation Coalition; and Sukai Gaye.

(Other) John Adkison, Genital Autonomy Society.

Persons Signed In To Testify But Not Testifying: None.