

SENATE BILL REPORT

SB 5453

As of January 29, 2023

Title: An act relating to female genital mutilation.

Brief Description: Concerning female genital mutilation.

Sponsors: Senators Keiser, Dhingra, Cleveland, Nguyen, Saldaña and Valdez.

Brief History:

Committee Activity: Law & Justice: 1/30/23.

Brief Summary of Bill

- Establishes a civil cause of action for minor victims of female genital mutilation.
- Makes it unprofessional conduct for a health care professional to perform female genital mutilation on a minor.
- Requires the Department of Health to establish an education program to prevent female genital mutilation.
- Creates the crime of female genital mutilation.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: Unprofessional Conduct of Health Care Providers. The Department of Health (DOH) certifies, licenses, and regulates dozens of health professions in Washington State. Most of these health professions are governed by a board, commission, or advisory committee which are supported by DOH. All health professions are subject to the Uniform Disciplinary Act (UDA). Under the UDA, DOH or a professional board or commission investigates unprofessional conduct claims and may take disciplinary action against a

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licensed health care provider. Disciplining actions include fines, license revocations, and restrictions on practice.

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.

State case law has held that exemplary damages—also known as punitive damages—are unavailable in the absence of express statutory authorization.

Sentencing for Criminal Convictions. Crimes are classified as misdemeanors, gross misdemeanors, or felonies (of which there are class A, B, and C felonies). The classification of a crime generally determines the maximum term of confinement, or fine for an offense, or both. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
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

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 costs incurred in bringing the action. A civil action must be brought within ten 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 Uniform Disciplinary Act for a licensed health care provider to perform female genital mutilation on a minor.

Education Program. 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. DOH must develop policies and procedures to both partner with relevant stakeholders to prevent female genital mutilation, and to train health care providers on recognizing factors and victims of female genital mutilation.

Crime of Female Genital Mutilation. A person is guilty of the crime of 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, with the intent to commit, or with the intent that another person will commit, 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 custom or ritual, that a minor consented to female genital mutilation, or that 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 ten 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 28th birthday, whichever is later.

Appropriation: None.

Fiscal Note: Requested on January 23, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.