

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H2/26/19

A Bill

SENATE BILL 318

5 By: Senators B. Davis, T. Garner, B. Ballinger, A. Clark, J. English, Flippo, K. Hammer, Hester, Irvin, B.
6 Johnson, Rice, G. Stubblefield, J. Sturch, D. Wallace
7 By: Representatives Lundstrum, C. Fite, B. Smith, G. Hodges, McCollum, Pilkington, C. Cooper, Cloud,
8 Bentley, Speaks, Cavanaugh, Richmond, Jean, Barker, Petty, Eaves, Jett, Brown, McKenzie, Penzo, J.
9 Mayberry, Dotson

For An Act To Be Entitled

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11
12 AN ACT TO PROHIBIT UNLAWFUL FEMALE GENITAL MUTILATION
13 OF A MINOR; TO PROVIDE FOR A CIVIL CAUSE OF ACTION;
14 TO CREATE AWARENESS PROGRAMS CONCERNING AND
15 STATISTICAL TRACKING OF UNLAWFUL FEMALE GENITAL
16 MUTILATION; TO DECLARE AN EMERGENCY; AND FOR OTHER
17 PURPOSES.
18

Subtitle

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20
21 TO PROHIBIT UNLAWFUL FEMALE GENITAL
22 MUTILATION OF A MINOR; TO CREATE
23 AWARENESS PROGRAMS CONCERNING AND
24 STATISTICAL TRACKING OF UNLAWFUL FEMALE
25 GENITAL MUTILATION; AND TO DECLARE AN
26 EMERGENCY.
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28
29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

30
31 SECTION 1. Arkansas Code Title 5, Chapter 14, Subchapter 1, is amended
32 to add an additional section to read as follows:

33 5-14-135. Unlawful female genital mutilation of a minor.

34 (a) As used in this section, "female genital mutilation" means a
35 procedure that involves the partial or total removal of the external female
36 genitalia or any procedure harmful to the female genitalia, including without



1 limitation:

2 (1) A clitoridectomy;

3 (2) The partial or total removal of the clitoris or the prepuce;

4 (3) The excision or the partial or total removal of the clitoris
5 and the labia minora, with or without excision of the labia majora;

6 (4) The infibulation or the narrowing of the vaginal orifice
7 with the creation of a covering seal by cutting and appositioning the labia
8 minora or the labia majora, with or without excision of the clitoris;

9 (5) Pricking, piercing, incising, scraping, or cauterizing the
10 genital area; or

11 (6) Any other action to purposely alter the structure or
12 function of the female genitalia for a nonmedical reason.

13 (b) A person commits the offense of unlawful female genital mutilation
14 of a minor if he or she:

15 (1) Knowingly performs female genital mutilation on a minor;

16 (2) Is a parent or guardian or has immediate custody or control
17 of a minor and knowingly consents to, permits, or facilitates female genital
18 mutilation of the minor; or

19 (3) Knowingly removes or causes, permits, or facilitates the
20 removal of a minor from this state for the purpose of facilitating the female
21 genital mutilation of the minor.

22 (c) Unlawful female genital mutilation of a minor is a Class C felony.

23 (d) It is not a defense under this section that:

24 (1) The unlawful conduct is required as a matter of religion,
25 custom, ritual, or standard practice; or

26 (2) The minor's parent or guardian consented to the female
27 genital mutilation.

28 (e) It is not a violation of this section if the acts or conduct that
29 otherwise would be considered female genital mutilation occurred in the
30 furtherance of a surgical or other lawful medical procedure, performed by a
31 licensed medical professional, and:

32 (1) Was necessary to preserve or protect the physical health of
33 the minor upon whom the surgical or other lawful medical procedure was
34 performed; or

35 (2) Was part of a sex reassignment procedure as requested by the
36 minor who was the patient in the sex reassignment procedure.

1 (f) The statute of limitation for an offense under this section does
2 not begin to run until the victim of the offense reaches eighteen (18) years
3 of age or when the violation of this section is first reported to a law
4 enforcement agency, whichever occurs first.

5
6 SECTION 2. Arkansas Code § 12-18-103(3)(A), concerning the definition
7 of abuse under the Child Maltreatment Act, is amended to add an additional
8 subdivision to read as follows:

9 (ix) Female genital mutilation.

10
11 SECTION 3. Arkansas Code § 12-18-103, concerning definitions related
12 to child maltreatment, is amended to add an additional subdivision to read as
13 follows:

14 (28)(A) "Female genital mutilation" means a procedure that
15 involves the partial or total removal of the external female genitalia or any
16 procedure harmful to the female genitalia, including without limitation:

17 (i) A clitoridectomy;

18 (ii) The partial or total removal of the clitoris or
19 the prepuce;

20 (iii) The excision or the partial or total removal
21 of the clitoris and the labia minora, with or without excision of the labia
22 majora;

23 (iv) The infibulation or the narrowing of the
24 vaginal orifice with the creation of a covering seal by cutting and
25 appositioning the labia minora or the labia majora, with or without excision
26 of the clitoris;

27 (v) Pricking, piercing, incising, scraping, or
28 cauterizing the genital area; or

29 (vi) Any other action to purposely alter the
30 structure or function of the female genitalia for a nonmedical reason.

31 (B) "Female genital mutilation" does not include acts or
32 conduct that otherwise would be considered female genital mutilation if the
33 acts or conduct occur in the furtherance of a surgical or other lawful
34 medical procedure, performed by a licensed medical professional, and:

35 (i) Is necessary to preserve or protect the physical
36 health of the child upon whom the surgical or other lawful medical procedure

1 was performed; or

2 (ii) Is part of a sex reassignment procedure as
3 requested by the child who was the patient in the sex reassignment procedure.

4
5 SECTION 4. Arkansas Code Title 16, Chapter 118, is amended to add an
6 additional section to read as follows:

7 16-118-116. Civil actions for unlawful female genital mutilation.

8 (a) A person who knowingly commits or attempts to commit unlawful
9 female genital mutilation of a minor as described in § 5-14-135 is liable to
10 the victim of the unlawful female genital mutilation.

11 (b) A person who knowingly directs or assists another person to
12 violate or attempt to violate § 5-14-135 is jointly liable under this
13 section.

14 (c) A court may award to a prevailing party in an action brought under
15 this section one (1) or more of the following remedies:

16 (1) Compensatory damages, including treble damages if the
17 defendant is shown to have acted willfully and maliciously;

18 (2) Punitive damages;

19 (3) Costs and fees, including reasonable attorney's fees; or

20 (4) Any other appropriate relief as provided by law.

21 (d) A cause of action under this section may be brought by a victim of
22 an unlawful female genital mutilation, or her estate, at any point before the
23 victim reaches or would have reached twenty-eight (28) years of age.

24 (e) The burden of proof under a cause of action under this section is
25 preponderance of the evidence.

26 (f) The doctrine of forum non conveniens does not apply to a claim
27 arising under this section.

28
29 SECTION 5. Arkansas Code Title 17, Chapter 80, Subchapter 1, is
30 amended to add an additional section to read as follows:

31 17-80-121. Unlawful female genital mutilation by a medical
32 professional.

33 (a) A state agency, board, or commission authorized to issue a license
34 to a medical professional under the laws of this state shall institute
35 disciplinary action against a licensed medical professional over whom the
36 state agency, board, or commission has jurisdiction and who is convicted of

1 unlawful female genital mutilation of a minor, § 5-14-135.

2 (b) The state agency, board, or commission instituting a disciplinary
3 action as described in this section may take any measure authorized to
4 discipline the licensed medical professional, including the revocation of any
5 license.

6
7 SECTION 6. Arkansas Code Title 20, Chapter 82, is amended to add an
8 additional subchapter to read as follows:

9
10 Subchapter 3 – Unlawful Female Genital Mutilation of a Minor

11
12 20-82-101. Awareness program established.

13 The Department of Health shall:

14 (1) Develop and administer a program of community education,
15 prevention, and outreach activities to address the health risks and emotional
16 trauma inflicted by the practice of unlawful female genital mutilation and to
17 inform communities of the criminal penalties for committing unlawful female
18 genital mutilation;

19 (2) Develop and disseminate information regarding unlawful
20 female genital mutilation, recognizing the risk factors associated with
21 unlawful female genital mutilation, and the signs that a person may be a
22 victim of unlawful female genital mutilation, and the criminal penalties for
23 committing unlawful female genital mutilation to teachers, and law
24 enforcement personnel, and ensuring their awareness and compliance with the
25 provisions of this section;

26 (3) Develop policies and procedures to promote partnerships
27 between departments, agencies, and political subdivisions, including without
28 limitation the Department of Human Services and Department of Education, and
29 other governmental entities and nongovernmental organizations to prevent
30 unlawful female genital mutilation and to protect and provide assistance to
31 victims of unlawful female genital mutilation;

32 (4) Outline best practices for responses to victims of unlawful
33 female genital mutilation; and

34 (5) Develop policies and procedures for the training of
35 providers of health services:

36 (A) Regarding best practices for responses to victims of

1 unlawful female genital mutilation; and

2 (B) To recognize:

3 (i) The risk factors associated with unlawful female
4 genital mutilation;

5 (ii) The signs that an individual may be a victim of
6 unlawful female genital mutilation; and

7 (iii) The criminal penalties for committing unlawful
8 female genital mutilation.

9
10 20-82-102. Statistics required.

11 (a) Healthcare practitioners of each county shall keep annual
12 statistics and report to the Department of Health cases of unlawful female
13 genital mutilation.

14 (b) The department shall thereafter compile an annual report of the
15 incidents reported, which will be published with no personal identifying
16 information.

17
18 *SECTION 7. EMERGENCY CLAUSE. It is found and determined by the*
19 *General Assembly of the State of Arkansas that the Centers for Disease*
20 *Control and Prevention currently estimates that five hundred fifty-one (551)*
21 *girls or women in Arkansas are at the risk of, or have undergone, female*
22 *genital mutilation; that female genital mutilation is recognized globally as*
23 *a human rights violation; and that this legislation is immediately needed to*
24 *help the women of Arkansas as soon as possible. Therefore, an emergency is*
25 *declared to exist, and this act being immediately necessary for the*
26 *preservation of the public peace, health, and safety shall become effective*
27 *on:*

28 *(1) The date of its approval by the Governor;*

29 *(2) If the bill is neither approved nor vetoed by the Governor,*
30 *the expiration of the period of time during which the Governor may veto the*
31 *bill; or*

32 *(3) If the bill is vetoed by the Governor and the veto is*
33 *overridden, the date the last house overrides the veto.*

34
35 */s/B. Davis*