



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.B. NO. 132, H.D. 1, RELATING TO FEMALE GENITAL MUTILATION.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, February 14, 2019 **TIME:** 02:05 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Paul R. Mow, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General ("the Department") submits the following comments.

The purpose of this bill is to prohibit the dangerous practice of female genital mutilation ("FGM"). FGM involves the cutting away and removal of healthy and normal female genital tissue.

The Department is concerned that the bill lacks definitions for the terms "medically necessary" and "medical purposes." Section 2 of the bill amends chapter 707, Hawaii Revised Statutes ("HRS"), to add a new section entitled "Prohibited acts related to female genital mutilation." Subsection (3) of that new section removes criminal liability from the medical procedure where the performer is a health care provider licensed pursuant to chapter 453, HRS and the procedure is performed within the scope of the person's license and qualification for two situations: (a) medically necessary for the health of the minor on whom it is performed; or (b) 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. Without definitions of what constitutes "medically necessary" or "medical purposes," it may become difficult to determine whether an exception to criminal liability applies for the specific performer.

Possible definitions that could be added to section 707-700 include the following:

“Medically necessary” means needed to diagnose or treat an illness, injury, condition, disease, functioning of a malformed body member, symptoms or complications that meet accepted standards of medicine.

“Medical purposes” means performed to treat a disease, condition or relieve pain.

The Department appreciates this opportunity to provide comments.

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Date: January 29, 2019

To: The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

From: Justin Murakami, Manager, Prevention Education and Public Policy
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of H.B. 132 H.D. 1
Relating to Female Genital Mutilation

Good morning Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary:

The Sex Abuse Treatment Center (SATC) supports H.B. 132 H.D. 1.

According to the World Health Organization, FGM is broadly defined to include procedures that intentionally alter or cause injury to the female genital organs for non-medical reasons, such as social convention or cultural or religious tradition. Such procedures have no health benefits for girls and women, and it harms them in many ways as it involves removing and damaging healthy, normal female genital tissue, and interferes with the natural functions of girls' and women's bodies with severe immediate and long-term health consequences.

FGM is recognized internationally as a violation of the human rights of girls and women, and constitutes an extreme form of discrimination and violation against women. As it is nearly always carried out on minors, it is also a violation of the rights of children.

The performance of FGM on minors for non-medical reasons was outlawed in the United States under federal law in 1996, with the passage of the Federal Prohibition of Female Genital Mutilation Act, while transporting a minor out of the country for FGM was further banned by the 2013 Transport for Female Genital Mutilation Act. In addition, 28 states have banned FGM under their respective state laws.

Two large-scale national studies of female genital mutilation have reflected that Hawai'i has a relatively low risk of people being subjected to FGM. One study, released by the African Women's Health Center at Brigham and Women's Hospital in Massachusetts in 2004, found that Hawai'i had an estimated 103 women at risk of FGM. The other, published by the Population Reference Bureau in 2016, found that

although there may be some risk in Hawai'i, the number was small enough that it did not appear in the sample data. In these studies, the term "at risk" was defined as a female person's being from a country where FGM was practiced on 2% or more of the population or having at least one parent from such a country.

Despite the relatively low risk of FGM in Hawai'i reflected by these analyses, it would be appropriate for our state to enact a ban on FGM at this time, based on a recent case decision in Michigan concerning the federal law. A U.S. District Court judge there declared the federal ban on FGM unconstitutional, reasoning that the federal government does not have the right to regulate FGM because FGM does not affect interstate commerce and is a local criminal activity for states to regulate, not Congress.

Thank you for this opportunity testify in support of H.B. 132 H.D. 1.

HB-132-HD-1

Submitted on: 2/12/2019 3:12:37 PM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of HB 132.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii

HB-132-HD-1

Submitted on: 2/13/2019 10:49:53 AM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

HB-132-HD-1

Submitted on: 2/13/2019 7:15:29 AM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Duffy	Individual	Support	No

Comments:

Please support this bill. Hawaii should join other states that have banned this practice. FGM is broadly condemned by the United Nations and the World Health Organization (WHO). They call it a violation of women's rights and they note:

- Female genital mutilation (FGM) includes procedures that intentionally alter or cause injury to the female genital organs for non-medical reasons.
- The procedure has no health benefits for girls and women.
- Procedures can cause severe bleeding and problems urinating, and later cysts, infections, as well as complications in childbirth and increased risk of newborn deaths.
- More than 200 million girls and women alive today have been cut in 30 countries in Africa, the Middle East and Asia where FGM is concentrated (1).
- FGM is mostly carried out on young girls between infancy and age 15.
- FGM is a violation of the human rights of girls and women.

Earlier this month (i.e., on February 6, 2019) WHO joined with other individuals, organizations and UN partners worldwide to mark the International Day of Zero Tolerance for FGM. If FGM is recognized internationally as a grave violation of the human rights of women and children, then by supporting this bill, Hawaii has the opportunity to send a clear message that it too, is a supporter of women's rights. Strongly recommend you support this bill.

Written Testimony on HB 132, H.D. 1, (HSCR76) Relating to Female Genital Mutilation
Before the Committee on Judiciary
Thursday, February 14, 2019
2:05 p.m., Conference Room 325

Dear Chairman Lee, Vice Chair San Buenaventura, and Members of the Committee:

My name is Donna Van Osdol, and I am a resident from Mililani. Thank you for the opportunity to submit my written testimony favoring this bill.

Female genital mutilation has been a sorrowful issue in the hearts and minds of women whose countries do not allow the practice. For years, I have sympathized with those who have been subjected to this cruel and humiliating procedure because it demeans the human dignity of a girl too young to know what really is happening to her body.

After reading about the recent Michigan case, I am so pleased knowing that there are legislators in Hawaii who oppose FGM. In spite of cultures, there should be no place in western civilization for FGM to continue, especially here in America.

While HB132, H.D. 1, is still a relatively decent bill, I am, however, perplexed as to why the effective date will be July 1, 2050! Surely, discussion and getting to know the issue better shouldn't take 30 years! Otherwise, this makes the bill (and the FGM issue) insignificant and unimportant! A more reasonable effective date would be 2025.

Additionally, while there is no statistical data on the prevalence of female genital mutilation here in Hawaii, don't you think it is safe to assume that no medical doctor performing this act would come forth to say what has been performed on a minor?

I highly recommend making the effective date July 1, 2025. This gives 5 years for effective discussion on this important issue.

Thank you, again, for this opportunity.

HB-132-HD-1

Submitted on: 2/13/2019 9:50:47 AM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rita Kama-Kimura	Individual	Support	No

Comments:

I thank you for hearing this bill. It appears that there is very little opposition to it, which is great.

It is a barbaric procedure that has no place in our state or our nation. Please move it quickly through our system and into law.

HB-132-HD-1

Submitted on: 2/13/2019 10:36:31 AM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

HB-132-HD-1

Submitted on: 2/13/2019 12:56:26 PM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mai Smith	Individual	Support	No

Comments:

Dear Committee Chair, Vice-Chair, and Committee Members,

My name is Mai Smith and I write in **strong support** of HB132 with amendments relating to female genital mutilation as a concerned private citizen. Currently 28 states have anti- female genital mutilation laws however Hawaii is one of 22 that has not passed any legislation. The World Health Organization has stated that there is no medical reason to have this procedure yet reports from the CDC show that FGM is rising in the United States. Although Hawaii is considered low risk for female genital mutilation, low risk still means that there are girls in Hawaii who are at risk. This bill is necessary to protect those girls who are at risk and for future generations. Thank you for addressing this issue.

Sincerely,

Mai Smith

NOTICE OF HEARING

DATE: Thursday, February 14, 2019
TIME: 2:05pm
PLACE: Conference Room 325

State Capitol
415 South Beretania Street

COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair
Rep. Joy A. San Buenaventura, Vice Chair

Rep. Tom Brower	Rep. Calvin K.Y. Say
Rep. Richard P. Creagan	Rep. Gregg Takayama
Rep. Nicole E. Lowen	Rep. Ryan I. Yamane
Rep. Angus L.K. McKelvey	Rep. Cynthia Thielen
Rep. Dee Morikawa	

Please pass HB 132 RELATING TO FEMALE GENITAL MUTILATION

Establishes the class B felony offense of prohibited acts related to female genital mutilation. Requires prosecuting attorneys of the respective counties to keep annual statistics on cases involving prohibited acts related to female genital mutilation. Requires the Judiciary's administrative director of the courts to annually compile and report these county statistics to the legislature. Requires the Department of Health to design and implement a plan for raising awareness about, preventing, and treating female genital mutilation and to report regularly to the Legislature on plan implementation

This bill sends an important message that female genital mutilation is a serious crime and will not be tolerated in Hawaii. HB 132 will serve as a serious deterrent and will also further solidify Hawaii's stance against FGM.

Female genital mutilation (FGM) is a procedure involving the partial or total removal of the external female genitalia or other injury to the female genital organs and is often performed on girls between the ages of 4 and 14 to ensure their virginity until marriage.

This dangerous procedure has no health benefits and has lifelong health and psychological consequences. Immediately following the procedure, girls are at risk for severe pain, shock, bleeding, bacterial infection, and injury to nearby tissue. In the long term, girls and women who have suffered this procedure are at risk for recurrent bladder and urinary tract infections, cysts, infertility, and complications during intercourse and childbirth.

The threat of female genital mutilation is a reality for a significant number of girls in the United States. While many think of this as a custom that only occurs in foreign countries, research conducted by the Centers for Disease Control and Prevention found in 2016 that approximately 513,000 women and girls in the U.S. had either been subjected to female genital mutilation or were at risk.

I therefore urge you to pass HB. NO.132. Let's work together to stop the violation of the human rights of girls in this way.

Thank you for support so that the cries of the innocent girls and women will not be ignored.

Sincerely, Fern Mossman
House District 50

QUICK KEY FACTS ON FGM

TALKING POINTS

1. The procedure has no health benefits for girls and women, and has serious health complications.
2. In Africa an estimated 92 million girls from 10 years of age and above have undergone FGM.
3. An estimated 6,000 girls are circumcised daily in Africa.
4. An estimated 228 million girls and women just in the U.S. are currently living with the consequences.
5. It is mostly carried out on young girls and sometime between infancy and age 15 years.
6. FGM is internationally recognized as a violation of the human rights of girls and women.

IMMEDIATE RISKS

- Severe Pain
- Shock
- Hemorrhage (bleeding)
- Tetanus or sepsis (bacterial infection)
- Urine retention
- Urinary tract infection
- Fracture of humerus, femus, or clavicle being restrained
- Fever
- Open sores in the genital region
- Injury to nearby genital tissue

- Severe pelvic inflammation
- Depression
- Sterility
- Sexual dysfunction
- Death

LONG TERM RISKS

- Possible HIV infection
- Keloid scars
- Chronic Abscess
- Vaginal narrowing
- Painful Menstruation
- Recurrent bladder and urinary tract infections
- Cysts, infertility
- Increased childbirth complications and newborn deaths,
- Need for later surgeries

PSYCHOLOGICAL HARMS

- Anxiety
- Depression
- Fear of sexual intercourse
- Post-traumatic stress disorder
- Fear of infertility

FAMILY CONCERNS

- Families considering abandoning circumcision often find the risks too high:
- Social wellbeing and Economic security

FGM and the United States –

- Until the 1950s, FGM was performed in the U.S.
- Now it is a federal crime to perform on people under the age of 18
- Dept. of Health and Human Services established interventions
- U.S. Immigration and Naturalization Service promotes awareness as to the dangers both physically and criminally
- New legislation requiring financial institutions to actively oppose loans to countries who don't actively
- Since 1994, twenty states (Arizona, California, Delaware, Florida, Kansas, Louisiana, Minnesota, New Jersey New York, North Dakota, Oklahoma, Rhode Island, Tennessee, Virginia and Wisconsin) passed legislation against the practice of FGM.
- In January 2013 President Obama signed an Amendment onto the NDAA restricting transport of females for the purpose of the procedure of FGM.

CONCLUDING THOUGHT...

FGM is human rights infringement on both girls and women?



WARNING!The following pictures are extremely graphic!!



1. Utensils used in FGM



2. Preparing the patient for the FGM



3. Finished procedure



4. Aftermath from the procedure



5. Patient after the procedure



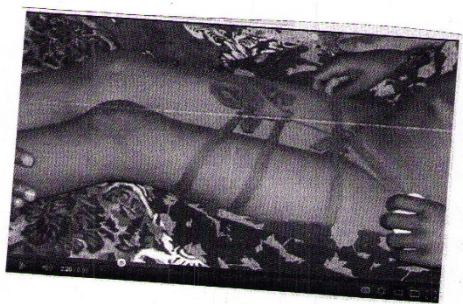
6. During the FGM

7. Some of the NICE prep rooms



8. Before surgery

9. Final Picture on the next page. Legs are bound together for 7 days to prevent the stitches from opening.



LATE

HB-132-HD-1

Submitted on: 2/13/2019 8:43:35 PM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Lee, Vice Chair San Buenaventura and members,

I strongly support this bill that would ban the heinous practice of so-called female "circumcision". This torture of girls reflects the violence against women and girls that is epidemic throughout the world. It is a human rights violation and must be stopped.

I highly recommend Alice Walkers novel, "Possessing the Secret of Joy" that deals with this subject. Written in 1992, this barbaric practice is still allowed to continue well into the 21st Century. Please pass this bill.

Mahalo, for caring

Ann S. Freed

HB-132-HD-1

Submitted on: 2/13/2019 9:56:24 PM

Testimony for JUD on 2/14/2019 2:05:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Lora Burbage	Individual	Support	No

Comments:

I am in support of this bill. FGM is abuse to girls and women and should not be allowed in our state.

Mahalo,

Lora Burbage

LATE

HB-132-HD-1

Submitted on: 2/14/2019 1:06:55 AM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph P. Picon	Individual	Support	No

Comments:

I am a Hawaii resident of Waipahu and registered voter in the 37th district.

I support House Bill 132 HD1, RELATING TO FEMALE GENITAL MUTILATION, that establishes the class B felony offense of prohibited acts related to female genital mutilation in the statutory definition of child abuse or neglect and as a prohibited act under the State's Child Protective Act.

Please protect our female citizens in Hawaii from female genital mutilation by declaring it a prohibited act.

Please keep our citizens in the State of Hawaii safe and pass HB132 HD1.
Thank you.

Joseph P. Picon

LATE

HB-132-HD-1

Submitted on: 2/14/2019 1:39:26 PM

Testimony for JUD on 2/14/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Matt Binder	Individual	Support	No

Comments:

Dear Chair and committee members,

Please vote yes on this bill to end a horrific practice that has no place in our modern society. Just because some religious group somewhere thinks that their god has ordained a certain practice does not mean that you, as legislators, have to condone it. Freedom of religion should not allow a person to mutilate a non-consenting child.

Thank you,

Matt Binder, Waimea

HB132, Public Testimony
Hawaii State Legislative Session
Thursday, February 14, 2019
Submitted By: PM Azinga

"When you circumcise a girl child you affect her whole womanhood"

It has been little over 168 hours (Wednesday, February 6, 2019) since the United Nations sponsored the annual awareness day to eradicate the practice of Female Genital Mutilation called the International Day for Zero Tolerance of Female Genital Mutilation. A study by the Centers for Disease Prevention and Control estimated that 513,000 women and girls across the US were at risk or have been subjected to Female Genital Mutilation. I can't help thinking about how many young girls have fallen prey to this practice while we have been debating this issue.

Of the twenty-seven states in America who have addressed the subject of Female Genital Mutilation a number of strategies have been put forth to utterly eliminate this practice. They include but are not limited to some of the following:

- *prohibit culture as a defense for its practice
- * institute felony charges
- * prosecute the practitioner
- * prosecute the parent
- * prosecute the facilitating
- *revoke the practitioner's license
- *prohibit vacation cutting
- * Victim can pursue a civil case
- *protection of vulnerable adult
- *training of school health officials K-12,
- * law enforcement, Child Protective Services
- *mandatory reporting
- *data collection by state & country Health Department
- *data share with child protective service, the police
- * department, commission on the status of women,
- *marriage license report keeping
- * targeted community outreach, community forums

However what particularly worries me in HB 132 HD1 707 numbers 3ab where health care providers are not subject to any liability under this section if procedure is performed under the scope of the person's license & qualification. I'd like the word "not" stricken from the record. By allowing that the health care provider not be subject to liability, defacto, allowing, gives permission, permits, enable, consents, condones, and legalizes this procedure to happen. Of the 27 state in the United States this is prohibited.

Number 4. A parent, guardian, or other person legally responsible or charged with the care or custody of a minor who allow a procedure consistent with subsection (3) of this section to take place shall not be subject to criminal liability under this section. I'd like "not" stricken from the record. This procedure should not be permitted. 1. Parents, guardian, who place minor girls in places to have this procedure are subjecting these girls to child endangerment, violation of child protection and should be held liable.

Number 5.a person who removes, or causes or permits to be removed, a minor from the State for the purpose of a procedure consistent with subsection (3) o section shall not be subject to criminal liability under this law. I'd like the word, "Not": stricken from the record. This procedure should not be permitted. Interstate transport of a minor to have illegal procedure should be subject to kidnapping, human trafficking or child abduction.

In addition inserting which would 3(c) Prohibit the performance of re-infibulation and husband stitching on women who have just given birth.

Mahalo & Aloha