

JAN 18 2023

A BILL FOR AN ACT

RELATING TO FEMALE GENITAL MUTILATION.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- Female genital mutilation; statistics; reports.

5 (a) The prosecuting attorney of each county shall keep annual
6 statistics on the following:

7 (1) The number of offenders:

8 (A) Charged with prohibited acts related to female
9 genital mutilation under section 707- ; and

10 (B) Convicted under section 707- ; and

11 (2) The number of offenders recorded under this subsection
12 whose cases originated from mandatory reporting of
13 under section 346- .

14 (b) The prosecuting attorney of each county shall submit a
15 written report of the statistics recorded pursuant to subsection

16 (a) to the administrator of the Hawaii criminal justice data
17 center by September 1 of each year. The administrator of the



1 criminal justice data center shall compile the information
2 received from the respective county prosecutors and submit a
3 consolidated written report to the legislature no later than
4 twenty days prior to the convening of each regular session."

5 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§346- Reporting requirements; female genital
9 mutilation. (a) Notwithstanding any other state law concerning
10 confidentiality to the contrary, the following persons who, in
11 the performance of their professional or official capacity, know
12 or have reason to believe that a person is a victim of, or is in
13 danger of becoming a victim of, prohibited acts related to
14 female genital mutilation pursuant to section 707- , shall
15 immediately report the matter orally to the department or to a
16 police department:

17 (1) Any licensed or registered health care professional,
18 including a physician, physician in training,
19 physician assistant, psychologist, dentist, nurse,
20 osteopathic physician or surgeon, optometrist,
21 chiropractor, podiatrist, pharmacist, or other health-



1 related professional, who examines, treats, or
2 provides other professional or specialized health-
3 related services;
4 (2) Employees or officers of any public or private
5 hospital, clinic, or other health care institution who
6 provide social, medical, clinical, or mental health
7 services;
8 (3) Social workers licensed pursuant to chapter 467E and
9 non-licensed persons employed in a social worker
10 position pursuant to section 467E-6(2), whose primary
11 place of employment is a public or private hospital,
12 clinic, or other healthcare institution; and
13 (4) Employees or officers of any law enforcement agency,
14 including but not limited to the courts, police
15 departments, department of public safety or its
16 successor, correctional institutions, and parole or
17 probation officers.
18 (b) The initial oral report shall be followed as soon as
19 possible by a report written to the department. If a police
20 department or the department of public safety or its successor
21 is the initiating agency, a written report shall be filed with



1 the department for cases on which the police department or the
2 department of public safety or its successor takes further
3 action or for active cases in the department under this chapter.
4 All written reports shall contain the name of the person
5 believed to be a victim or in danger of becoming a victim, the
6 nature and extent of the injury, ailment, behavior, or
7 circumstance that prompted the report, and any other information
8 that the reporter believes may be helpful or relevant to the
9 investigation of prohibited acts related to female genital
10 mutilation pursuant to section 707- .

11 (c) Any person who knowingly fails to make a report
12 pursuant to subsection (a) within twenty-four hours after the
13 attendance, treatment, or examination, or who wilfully prevents
14 another person from making a report pursuant to this section,
15 shall be guilty of a petty misdemeanor.

16 (d) This section shall not prohibit any person from
17 reporting an incident that the person has reason to believe
18 involves prohibited acts related to female genital mutilation
19 that comes to the person's attention in a private or
20 nonprofessional capacity."



1 SECTION 3. Chapter 707, Hawaii Revised Statutes, is
2 amended by adding a new section to part V to be appropriately
3 designated and to read as follows:

4 "§707- Prohibited acts related to female genital
5 mutilation. (1) A person commits the offense of prohibited
6 acts related to female genital mutilation if the person
7 intentionally or knowingly:

8 (a) Circumcises, excises, or infibulates the whole or any
9 part of the labia majora, labia minora, or clitoris of
10 another person;

11 (b) As a parent, guardian, or other person legally
12 responsible or charged with the care or custody of a
13 minor, allows the circumcision, excision, or
14 infibulation, in whole or in part, of the labia

15 majora, labia minora, or clitoris of the minor; or
16 (c) Removes, or causes or permits to be removed, a minor
17 from the State for the purpose of circumcising,
18 excising, or infibulating, in whole or in part, the
19 labia majora, labia minora, or clitoris of the minor.



1 (2) It shall not be a defense to prosecution for a
2 violation of this section that the procedure or conduct
3 described in subsection (1):

4 (a) Is required as a matter of custom, ritual, or
5 religious practice;

6 (b) Was consented to by the person who was subjected to
7 it; or

8 (c) Was consented to by the parent, guardian, or other
9 person legally responsible or charged with the care or
10 custody of the minor who was subjected to it.

11 (3) A health care provider licensed pursuant to chapter
12 453 who performs the procedure described in subsection (1)(a)
13 shall not be subject to criminal liability under this section if
14 the procedure is:

15 (a) Within the scope of the person's license and
16 qualifications;

17 (b) Medically necessary for the physical health of the
18 person on whom it is performed; or

19 (c) Performed on a person who is in labor or who has just
20 given birth and is performed for medical purposes
21 connected with that labor or birth.



1 (4) As used in this section, "infibulate" means the
2 narrowing of the vaginal opening through the creation of a
3 covering seal, which is formed by cutting and repositioning the
4 labia minora, or labia majora, sometimes through stitching, with
5 or without removal of the clitoris.

6 (5) Prohibited acts related to female genital mutilation
7 is a mandatory reportable offense for any person required to
8 report pursuant to section 346- .

9 (6) Prohibited acts related to female genital mutilation
10 is a class B felony."

11 SECTION 4. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2023-2024 and
14 the same sum or so much thereof as may be necessary for fiscal
15 year 2024-2025 for the establishment of clinical and mental
16 health care for individuals who have undergone or been in danger
17 of undergoing female genital mutilation.

18 The sums appropriated shall be expended by the department
19 of health for the purposes of this Act.



1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval;
6 provided that section 4 shall take effect on July 1, 2023.

7

INTRODUCED BY: 



Report Title:

Prohibited Acts Related to Female Genital Mutilation; Penal Code; Department of Health; Hawaii Criminal Justice Data Center; County Prosecutors; Annual Report; Appropriation

Description:

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 Administrator of the Hawaii Criminal Justice Data Center to annually compile and report these county statistics to the Legislature. Establishes mandatory reporting requirements for ongoing or suspected cases of prohibited acts related to female genital mutilation. Appropriates funds.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

