

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1819

H.P. 1261

House of Representatives, February 5, 2018

An Act Prohibiting Female Genital Mutilation

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SIROCKI of Scarborough. (GOVERNOR'S BILL)
Cosponsored by Senator MASON of Androscoggin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §214** is enacted to read:

3 **§214. Female genital mutilation of a minor; transportation**

4 1. As used in this section, "female genital mutilation" means the circumcising,
5 excising, mutilating or infibulating, in whole or in part, of the labia majora, labia minora
6 or clitoris of a female individual.

7 2. A person is guilty of female genital mutilation of a minor if that person, for
8 nonmedical purposes, performs female genital mutilation on a female individual under 18
9 years of age and:

10 A. The person is not a parent or guardian of the female individual or someone who
11 has immediate custody of the female individual. Violation of this paragraph is a
12 Class A crime; or

13 B. The person is a parent or guardian of the female individual or someone who has
14 immediate custody of the female individual. Violation of this paragraph is a Class B
15 crime.

16 3. A person is guilty of transportation of a person for female genital mutilation of a
17 minor if that person knowingly transports a female individual under 18 years of age
18 outside of this State for the purpose of allowing another person to perform, for
19 nonmedical purposes, female genital mutilation on a female individual under 18 years of
20 age and:

21 A. The person is not a parent or guardian of the female individual or someone who
22 has immediate custody of the female individual. Violation of this paragraph is a
23 Class A crime; or

24 B. The person is a parent or guardian of the female individual or someone who has
25 immediate custody of the female individual. Violation of this paragraph is a Class B
26 crime.

27 4. For the purposes of determining whether a female individual who does not have a
28 birth certificate is a victim of female genital mutilation of a minor, the age of that female
29 individual may be established using the school records of that individual or a document
30 filed with a government agency identifying that individual.

31 5. Notwithstanding section 8, a prosecution for a violation of this section may be
32 brought no later than the victim's 25th birthday.

33 6. A violation of this section by a physician licensed pursuant to Title 32, chapter 36
34 or 48 is grounds for permanent revocation of that license.

35 7. It is not a defense to prosecution under this section that the female individual
36 under 18 years of age or the parent, guardian or person who has immediate custody of the
37 female individual under 18 years of age:

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A. Consented to the female genital mutilation; or

B. Believed that the female genital mutilation was required as part of custom, religion or ritual.

8. It is a defense to prosecution under this section that the female genital mutilation was done for purposes related to the health of a female individual under 18 years of age as determined to be necessary by a physician licensed pursuant to Title 32, chapter 36 or 48.

SUMMARY

This bill defines "female genital mutilation" and makes it a Class A crime to perform female genital mutilation on a female individual under 18 years of age for nonmedical purposes or a Class B crime if the person who performs the female genital mutilation is a parent, guardian or someone who has immediate custody of the female individual. This bill also criminalizes transporting a female individual under 18 years of age outside of the State for the purpose of undergoing female genital mutilation. A physician licensed in Maine who performs a female genital mutilation of a minor is subject to permanent revocation of the medical license of that physician.

This bill extends the statute of limitations to the 25th birthday of a victim of female genital mutilation and allows, in order to determine the age of a female individual who is a victim of female genital mutilation and who does not have a birth certificate, the use of school records or a document filed with a government agency to establish the age of the female individual.

Under the provisions of the bill, it is not a defense to prosecution that the female individual, or the parent, guardian or person who has immediate custody of the female individual, consented to the procedure or believed that it was necessary for custom, religion or ritual. It is a defense to prosecution that the procedure was done for purposes related to the health of the female individual by a person licensed as a physician in this State.