

## FEMALE GENITAL MUTILATION

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4636 as enacted**  
**Public Act 68 of 2017**  
**Sponsor: Rep. Michele Hoytenga**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4637 as enacted**  
**Public Act 69 of 2017**  
**Sponsor: Rep. Diana Farrington**

**House Bill 4638 as enacted**  
**Public Act 74 of 2017**  
**Sponsor: Rep. Daire Rendon**

**House Bill 4716 as enacted**  
**Public Act 193 of 2017**  
**Sponsor: Rep. Peter J. Lucido**

**House Bill 4639 as enacted**  
**Public Act 75 of 2017**  
**Sponsor: Rep. Clint Kesto**

**Senate Bill 337 as enacted**  
**Public Act 70 of 2017**  
**Sponsor: Sen. Margaret E. O'Brien**

**House Bill 4641 as enacted**  
**Public Act 76 of 2017**  
**Sponsor: Rep. Stephanie Chang**

**Senate Bill 338 as enacted**  
**Public Act 72 of 2017**  
**Sponsor: Sen. Rick Jones**

**House Bill 4642 as enacted**  
**Public Act 74 of 2017**  
**Sponsor: Rep. Pam Faris**

**Senate Bill 368 as enacted**  
**Public Act 71 of 2017**  
**Sponsor: Sen. Tonya Schuitmaker**

**House Bill 4661 as enacted**  
**Public Act 78 of 2017**  
**Sponsor: Rep. Beth Griffin**

**Senate Bill 369 as enacted**  
**Public Act 73 of 2017**  
**Sponsor: Sen. Judy Emmons**

**House Bill 4690 as enacted**  
**Public Act 79 of 2017**  
**Sponsor: Rep. Bronna Kahle**

**Senate Bill 410 as enacted**  
**Public Act 81 of 2017**  
**Sponsor: Sen. Patrick Colbeck**

**House Committee: Law and Justice**  
**Senate Committee: Judiciary**  
**Complete to 10-8-18**

**BRIEF SUMMARY:** The bills amend various acts to:

- Prohibit performing female genital mutilation (FGM) of a person less than 18 years of age.
- Create criminal penalties and civil actions.
- Provide sanctions against health care licensees, including permanent revocation of a license or registration.
- Require public education about FGM.

- Extend criminal and civil statutes of limitations.
- Add, as a circumstance constituting grounds for termination of a parent’s right parental rights to a child, knowingly allowing the child or her siblings to undergo FGM.

Each of the bills, with the exception of House Bill 4716, took effect October 9, 2017. House Bill 4716 took effect March 7, 2018.

**FISCAL IMPACT:** Some of the bills will have a fiscal impact on state and/or local governments. (See *Fiscal Information*, below, for more information.)

**THE APPARENT PROBLEM:**

According to the Centers for Disease Control and Prevention, an estimated 513,000 women and girls in the United States have experienced, or are at risk of experiencing, Female Genital Mutilation (FGM). A representative from the AHA Foundation estimates that, of those 513,000 women and girls, 10,493 are living in Michigan. Two Detroit-area doctors, and a third person, have recently been charged under the federal FGM statute, related to the performing of FGM on two girls from Minnesota at a medical clinic in Livonia.

Even though a federal framework already exists, sponsors of the bills believe that the federal laws are not severe enough to account for the lifetime of suffering victims of FGM experience. Additionally, the sparse federal laws addressing FGM do not hold everyone involved in the procedure accountable for their actions. For instance, according to the *Washington Post*, the parents of the girls in the above-mentioned case lost custody of their children for only 72 hours, prompting Minnesota to draft its own state legislation to make up for the inadequacy of the federal laws.<sup>1</sup> Michigan legislators have crafted a comprehensive package of bills to address various aspects of FGM in the hopes of eradicating it from the state; the proposals range from creating a stiffer criminal penalty, to education about FGM, to terminating a parent’s parental rights, to extending certain statutes of limitations so that girls forced to undergo FGM may file criminal charges and civil actions when they reach adulthood.

**THE CONTENT OF THE BILLS:**

**Criminal Penalties and Statute of Limitations**

**House Bill 4636 and Senate Bill 337**, which are identical, would add a new section to the Michigan Penal Code (MCL 750.136). The bills prohibit a person from knowingly circumcising, excising, or infibulating the whole or any part of the labia majora or labia minora or clitoris of a person less than 18 years of age. (Infibulating refers to the practice of stitching up most or all of the vulva.)

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<sup>1</sup> Abigail Hauslohner, *The Washington Post*, “First federal case under female genital mutilation ban spurs efforts for harsher penalties,” May 29, 2017. [https://www.washingtonpost.com/national/first-federal-case-under-female-genital-mutilation-ban-spurs-efforts-to-stiffen-penalties/2017/05/25/5b29d0de-39a9-11e7-a058-ddbb23c75d82\\_story.html](https://www.washingtonpost.com/national/first-federal-case-under-female-genital-mutilation-ban-spurs-efforts-to-stiffen-penalties/2017/05/25/5b29d0de-39a9-11e7-a058-ddbb23c75d82_story.html)

Exceptions: A surgical operation would not be a violation of the above prohibition if the operation were either of the following:

- Necessary to the health of the person on whom it is performed, and performed by a person licensed to perform that operation under the Public Health Code.
- Performed on a person in labor or who has just given birth, and performed for medical purposes connected with that labor or birth by a person licensed to perform that operation under the Public Health Code.

**House Bill 4637 and Senate Bill 368**, which are identical, also add a new section to the Michigan Penal Code (MCL 750.136a). The bills prohibit a person from knowingly transporting a person from this state for the purpose of conduct with regard to that person that would be a violation of Section 136 (FGM) if the conduct had occurred in this state. The bills also prohibit knowingly facilitating transporting a person from the state for the purpose of conducting a violation of Section 136.

The following provisions apply to all of the bills:

- A person who violates the prohibitions of Sections 136 or 136a, or knowingly facilitates a violation, would be guilty of a felony punishable by imprisonment for not more than 15 years.
- Believing that the operation is required as a matter of custom or ritual by the person upon whom it is performed or by any other person would not be a defense to prosecution. Parental consent to the operation would also not be a defense to prosecution.
- A violation of either bill by a health care provider licensed under the Public Health Code would be grounds for permanent revocation of that license. In addition, the provisions added by the bills would not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of either of these provisions.

**House Bill 4638 and Senate Bills 338 and 369** amend the Code of Criminal Procedure (MCL 777.16g) to place the penalties for a violation of House Bill 4636 or 4637 within the sentencing guidelines. Specifically, Senate Bill 338 states that a female genital mutilation violation, and Senate Bill 369 states that transporting a person for purpose of female genital mutilation, would be a Class B felony against a person with a maximum term of imprisonment of 15 years. House Bill 4638 contains the provisions of both Senate Bill 338 and Senate Bill 369.

The bills also make a technical correction to a sentencing guideline pertaining to a second or subsequent offense involving abuse against a vulnerable adult by a caregiver or licensee.

**House Bill 4690** would amend the Code of Criminal Procedure (MCL 767.24) to prescribe a statute of limitations for the crime of female genital mutilation. An indictment could be found and filed within 10 years after the offense was committed, or by the alleged victim's 21st birthday, whichever is later.

## Health Care License Revocation

**House Bill 4639 and Senate Bill 410** would amend the disciplinary section of the Public Health Code to require that the health care license or registration of a person convicted of violating the prohibitions under Senate Bills 337 or 368 be permanently revoked.<sup>2</sup> A certified copy of the court record would be conclusive evidence of the conviction.

Senate Bill 410 would amend the sanctions list under the Public Health Code (MCL 333.16226) to note that permanent revocation would be the penalty for the conduct described in House Bill 4639. That bill would amend the Public Health Code to cite the Michigan Penal Code provisions related to FGM and specify that a certified copy of the court record would be conclusive evidence of the conviction under the Penal Code (MCL 333.16221).

[Under provisions of the Public Health Code, a licensed or registered health care professional (or applicant) can be subject to administrative sanctions for engaging in certain conduct or prohibited acts, as specified in the Code. For example, negligence or failure to exercise due care, incompetence, practice outside the scope of a license, or conviction of certain criminal offenses can result in sanctions levied against the person's license or registration. These sanctions, which apply to specific violations, may include denial, suspension, or revocation of the license or registration; reprimand; fines; restitution; and community service.]

## Civil Actions for FGM Victims

**House Bills 4641 and 4661** would amend the Revised Judicature Act related to civil actions for damages brought by victims of female genital mutilation. Under both bills, "female genital mutilation" would refer to the conduct listed in the provisions added to the Michigan Penal Code by House Bill 4636 (which would criminalize the practice of female genital mutilation). Specifically, the bills would do the following:

House Bill 4641 would add a new provision (MCL 600.5851a) so that an individual who, while a minor, was a victim of female genital mutilation could commence an action under Section 2978 (added by House Bill 4661) or as otherwise allowed by law to recover damages sustained at any time before the individual reaches 28 years of age. (This would provide an extended statute of limitations.)

House Bill 4661 would create a new section (MCL 600.2978) to allow a victim of female genital mutilation to bring a civil action, in a court of competent jurisdiction, for damages

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<sup>2</sup> Currently, the following health care professions are licensed or registered under Article 15 of the Public Health Code: acupuncturists, chiropractors, dentists, dental assistants, dental hygienists, audiologists, marriage and family therapists, physicians (M.D.s and D.O.s), nurses, nursing home administrators, optometrists, speech-language pathologists, pharmacists, physical therapists and physical therapy assistants, physician's assistants, athletic trainers, massage therapists, podiatrists, counselors, psychologists, occupational therapists and occupational therapy assistants, dietitians and nutritionists, sanitarians, social workers and social service technicians, respiratory therapists, and veterinarians and veterinarian technicians.

sustained because of the female genital mutilation. A court would also be able to award all of the following:

- Three times the amount of actual damages sustained (also called “treble damages”).
- Damages for noneconomic loss.
- Costs and reasonable attorney fees.

The remedy provided by this new section is in addition to any other right or remedy the individual may have at law or otherwise.

The term “noneconomic loss” would mean damages or loss due to pain, suffering, inconvenience, physical impairment, physical disfigurement, loss of society and companionship, loss of consortium, or other noneconomic loss.

### **FGM Educational and Outreach Program**

**House Bill 4642** would add a new section to the Public Health Code (MCL 333.9159) to require the development and administration of an educational and outreach program by the Department of Health and Human Services (DHHS) to—at a minimum—inform the public of the health risks and emotional trauma inflicted by the practice of FGM and criminal penalties for FGM.

The program would have to include informing members of new immigrant populations and health care providers. Further, the DHHS must develop and disseminate information on FGM and the criminal penalties to teachers and law enforcement personnel.

The bill would define “female genital mutilation” to mean the circumcision, excision, or infibulation, in whole or part, of the labia majora, labia minora, or clitoris of a female who is under 18 years of age. In developing the program described in the bill, the DHHS would seek input from all of the following:

- The general public, including individuals from communities that, as a matter of custom or ritual, traditionally practice FGM.
- Women’s health organizations.
- Teachers. [The bill does not indicate whether this would be K-12 teachers or include teaching staff at institutions of higher education or other educational institutions such as trade schools.]
- Local health departments.
- Health care providers, defined to mean: a person licensed, registered, or otherwise authorized to engage in a health profession under Article 15 of the Code or a health facility or agency as defined in Section 20106.
- State agencies that the DHHS considers relevant.

### **Loss of Parental Rights**

**House Bill 4716** would add, as a circumstance that constitutes grounds for termination of a parent’s parental rights to a child, that the parent is convicted under a state or federal law

of knowingly performing FGM on a child or knowingly transporting a child, or facilitating the transport of a child, for that purpose.

The Juvenile Code provides that the family division of circuit court (family court) may terminate the parental rights to a child who remains in foster care or in the custody of a guardian or limited guardian if the court finds by clear and convincing evidence that certain circumstances exist. One of those circumstances is that the parent is convicted of certain crimes (e.g., murder in the first or second degree or a criminal sexual conduct crime) under Michigan law or a substantially similar federal law or law of another state if the court determines that termination is in the child's best interests because continuing the parent-child relationship with the parent would be harmful to the child.

The bill would amend the Juvenile Code (MCL 712A.19b) to add a conviction of Section 136 or Section 136a of the Michigan Penal Code, or another state or federal law that is substantially similar, to that circumstance.

### ***BACKGROUND INFORMATION:***

According to the World Health Organization (WHO), female genital mutilation (FGM, also called cutting) is any procedure involving the partial or total removal of the external female genitalia, or other injury to the female genital organs for nonmedical reasons. WHO classifies FGM into four categories, as follows:

- Type 1 – clitoridectomy: partial or total removal of the clitoris and, in very rare cases, only the prepuce.
- Type 2 – excision: partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora.
- Type 3 – infibulation: narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the inner or outer labia, with or without removal of the clitoris.
- Type 4 – other: all other harmful procedures to the female genitalia for nonmedical purposes; for example, pricking, piercing, incising, scraping, and cauterizing the genital area.

The AHA Foundation has found that the procedure is often performed on girls between the ages of 4–14 and for a variety of cultural, social, and religious reasons. As reported by WHO, some factors may include strong cultural traditions or social conventions that pertain to ideals of femininity through removal of body parts considered “unclean” or “male,” and to prove virginity at the time of marriage. In such social circles, it is considered a necessary procedure in order for a woman to be “desirable” by a potential spouse. The Centers for Disease Control and Prevention reported that the three countries with the highest prevalence of FGM are Somalia, Ethiopia, and Sudan.

WHO has found no health benefits for girls and women, as the procedure involves the removal and/or damage of normal and healthy female genital tissue. In effect, FGM negatively interferes with the natural functions of girls' and women's bodies. Immediate consequences include severe pain, shock hemorrhage (bleeding), tetanus or sepsis

(bacterial infection), urine retention, open sores in the genital region, and injury to nearby genital tissue. Long-term consequences often consist of recurrent bladder and urinary tract infections, cysts, infertility, complications during sexual intercourse and childbirth, and an increase in newborn deaths and stillbirths. Other psychological consequences occur as well, such as loss of trust, betrayal, post-traumatic shock, depression, anxiety, guilt, and suicidal ideation. For women who have resisted the procedure, they often become outcasts of their society and are shamed for their “uncleanliness.” These women are also at a higher risk for “honor” violence or abuse because the family’s honor can lie with girls undergoing FGM.

Current federal regulations criminalize FGM under Chapter 18, Section 116 of the United States Code, which prohibits a person from knowingly performing FGM on girls less than 18 years of age or from taking a girl abroad for FGM (also known as “vacation cutting”). A person found guilty under this law would receive a maximum of five years’ imprisonment and/or an unspecified fine amount. Chapter 8, Section 1374 of the United States Code also requires United States immigration officials to provide all immigrants with information about the severe physical and mental harm FGM causes and the legal consequences of performing FGM.

#### ***FISCAL INFORMATION:***

##### **House Bills 4636, 4637, and 4690 and Senate Bills 337 and 368**

The bills would have an indeterminate fiscal impact on the state’s correctional system and on local court systems, which would depend on the number of persons convicted under the provisions of the bills. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,600 per supervised offender in the same year. The fiscal impact on local court systems would depend on how the provisions of the bills affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

##### **House Bill 4638 and Senate Bills 338 and 369**

The bills amend sentencing guidelines and do not have a direct fiscal impact on the state or on local units of government.

##### **House Bill 4639 and Senate Bill 410**

The bills would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs (LARA).

##### **House Bills 4641 and 4661**

The bills would have an indeterminate fiscal impact on the state and on local court systems and would depend on the number of victims who commenced actions to recover damages. Local court systems would incur costs depending on how court caseloads and related administrative costs were affected.

### **House Bill 4642**

The bill will cost the DHHS up to \$150,000 to: a) develop and administer an educational and outreach program for the public, immigrants, and health care providers; b) seek input from numerous groups; and c) develop and disseminate information to teachers and law enforcement personnel.

Development of materials will require DHHS and contractual staff time initially and for subsequent updates. Costs for publication and dissemination will depend on the volume of materials provided in a print format and the volume provided in an electronic format to intended recipients.

### **House Bill 4716**

House Bill 4716 would have an indeterminate fiscal impact on the state and on local court funding units. The impact would depend on costs incurred for an increased caseload in the courts and increased administrative costs. The provision added by the bill would be just one of many factors a court would have to consider when using its discretion to make a determination on the termination of parental rights. The fiscal impact would depend on the outcome of these cases.

To the extent that the bill's provisions might increase the number of youth that enter the foster care system, the bill could increase costs to the DHHS and to counties for increased caseload costs for foster care services. The amount of any increased costs would depend upon how many additional cases might be added and the determinations made by the courts in those cases.

## ***ARGUMENTS:***

### ***For:***

Many in Michigan had never heard of FGM before a Michigan doctor was accused of performing it on two young girls from Minnesota. The clinic owner and his wife where the procedures were performed are now also facing charges for their role in the incident. As discussed in the ***Background*** section, FGM has no medical basis and can lead to serious and even life-threatening complications over a woman's lifespan. Often touted as having roots in religious doctrine, none of the major religions require FGM, though some sects or offshoots may have leaders who promote the practice. For example, observers say, FGM is practiced around the world by Muslims and Christians, and by adherents of pagan religions. Supporters of this legislation say that it is time, however, for this ancient practice to end.

The bill package embodies a comprehensive plan to address various issues surrounding FGM. The main thrust lies in creating a 15-year felony for anyone who would perform FGM on a child or who transports a child in the state for that purpose. House Bill 4637 and Senate Bill 368 would apply the penalty also to knowingly facilitating transporting a child for a FGM procedure. Exceptions are provided in the bills to exclude procedures done for a medical reason, and the provisions do not apply once a woman reaches the age of majority

at 18. Parents who subjected a child to FGM could not use as a defense that they were exercising their religious or cultural beliefs.

Supporters of this legislation say that though federal law already prohibits the practice, the penalty is so minor (a maximum of five years in prison, with no convictions on the books as of yet) as to be an ineffective deterrent. It is hoped that the threat of spending up to 15 years in prison will get the attention of parents and motivate them to resist the pressure of friends, family, and community elders still wrongfully pushing this abusive practice.

***Against:***

Federal law already makes FGM a crime. Numerous Michigan statutes, including child abuse and maiming, provide prosecutors with remedies. Further, depending on the immigration status of the parents, even a misdemeanor charge can result in a parent's being deported. That fact, coupled with a focus on education and outreach efforts (as proposed in House Bill 4642) may alone be effective in reducing, if not eliminating, the practice of FGM among the state's immigrant population.

In addition, the harsh imprisonment and loss of a medical license—equating FGM with crimes involving criminal sexual conduct—could inadvertently drive the practice more underground and encourage more parents to seek the services of untrained people in unsanitary settings rather than a medical practitioner performing a less radical procedure under sterile conditions. It should be remembered that this procedure, though heinous and medically unnecessary, is being done out of love and concern by parents who, because of their personal religious or cultural beliefs, believe their child will be more harmed if FGM is not performed.

***For:***

Proponents of House Bills 4641 and 4661 argue that, in order to allow for equitable relief, a victim of FGM should be able to sue under a civil statute for the act of FGM. Currently, a victim may sue under mayhem or battery, but a proper civil framework does not exist. In addition, the current statute of limitations for bringing a civil suit for a personal injury is two years from the time of actual discovery of harm or when a plaintiff should have discovered the harm. Many girls do not realize or understand exactly what has happened to them until they reach adulthood. Because of this, and because women and girls who have suffered FGM experience long-term health problems, the statute of limitations should be extended to allow girls and women to come forward and gain proper relief.

***For:***

Supporters of House Bill 4690 argue that the statute of limitations to bring a criminal charge for the act of FGM should be extended. Currently, a similar crime must be prosecuted within six years, which can be well before a victim of FGM becomes an adult. The extension proposed under the bill would be the same as that for criminal sexual conduct in the second, third, and fourth degrees and assault with the intent to commit criminal sexual conduct.

Concerns were raised regarding negative effects that could result from a longer statute of limitations. Evidence disappears and memories fade over time, making cases harder to prosecute the longer a victim waits to come forward. However, proponents of the bill argue that victims need to be given time so they are ready to come forward. Additionally, the physical evidence of FGM is permanent on a victim.

***For:***

House Bill 4639 and Senate Bill 410 would result in a health care professional who engages in or facilitates the practice of FGM permanently losing his or her professional license or registration. Advocates say that to knowingly subject vulnerable, trusting children to the immediate and also long-lasting pain and suffering associated with FGM for no medical or health benefit is unconscionable. The Hippocratic Oath, which many adhere to, says not to do harm. Any trained medical professional who engages in FGM, which is a clear violation of that oath, should therefore not be allowed to practice medicine again.

***For:***

House Bill 4642 will require the DHHS to develop an educational and outreach program targeting populations in which children may be at higher risk of being forced to undergo FGM and those professionals who interact with them such as teachers and law enforcement, and even DHHS case workers. Even physicians would receive information. Though often FGM is only discovered after the damage has been done, as more general practitioners and pediatricians become aware of the practice, they can educate their patient's parents of the truth about FGM and the potential criminal penalties it could trigger.

As many victims of FGM are now speaking out against the practice, and as laws begin to change, there is hope that FGM will finally be eradicated—if not in the world, at least in this part of it.

***For:***

Under House Bill 4716, if a parent were convicted under Michigan law, or a similar federal law or law of another state, of performing FGM on a child, whether their own or another person's child, a court could terminate the parent's parental rights to all of the parent's children (not just the child on whom FGM was performed). Similarly, a parent who transported his or her own or someone else's child, or facilitated the transport, for the purpose of having FGM performed, could have the parental rights to any of his or her own children terminated; this would include transporting the child within Michigan or from Michigan to another state or country. Federal law also applies to transporting a child from the U.S. to another country for the purpose of FGM. House Bill 4716 would not apply in situations in which a parent performed FGM on a child, or aided in the transport of any child for the purpose of FGM, in another country before taking up residence in the United States (this is because there would be no conviction under Michigan, federal, or another state's law regarding FGM).

Termination of parental rights would not be automatic. If a parent were convicted of violating the new Michigan law banning FGM, or a federal or other state's law that is

substantially similar to Michigan's law, a court would still have to find—*by clear and convincing evidence*—that termination is in the child's best interests because continuing the parent-child relationship would be harmful to the child. A clear and convincing standard of proof is the highest level of proof in civil matters, though lower than the standard of proof used in criminal cases.

FGM is very traumatizing to a child, but the trauma doesn't end when the initial wound heals. Knowledgeable observers say the procedures used can subject a woman to a litany of pain and infections across her lifespan. Among other things, FGM can make childbirth difficult and even hazardous for both mother and baby. Though many maintain it is a part of a religious practice, none of the major religions require or encourage FGM. Any parent who would subject his or her own daughter or someone else's little girl to FGM despite the current understanding of the detriment to the health of females, discouragement from many cultural and religious leaders, and state and federal law criminalizing the practice should be scrutinized to see if a continued relationship with their own children would increase the risk that the children could or would suffer physical or emotional harm.

Simply put, the bill will allow a court, in those cases in which one or both parents have been convicted of a crime related to FGM, to determine if the child involved or other children in the home are in danger of being harmed if allowed to remain in a relationship with the parent who was convicted. If the court is satisfied that there is clear and convincing evidence that the child or children will be harmed by a continued relationship with the parent, the rights of the convicted parent could be terminated.

***Against:***

House Bill 4716 would apply to a U.S. citizen or legal immigrant who was convicted not just under the new Michigan law, but also any similar law of another state or federal law. Thus, a person who had been convicted under another state's FGM law or the federal law, whether the person was a Michigan resident at the time of the conviction or moved to the state at a later time, could have a Michigan court decide to terminate parental rights to any of his or her children. In addition, the bill can be applied to terminating the rights of a parent to a child born years after a conviction under a state or federal FGM statute. That child could be subject to removal based on the previous conviction. Though a judge is to consider whether or not the child risks harm if a relationship with the parent is continued, a petition filed for termination under the section of law to which a conviction of FGM is being added almost always ends in termination of the parent's parental rights.

Further, some feel that, because FGM often involves the children of immigrants, people should be aware that any criminal conviction can be grounds for deportation. Others have expressed concerns that strict FGM penalties can drive the practice further underground or be an incentive for parents to have the procedure performed when the children are infants or toddlers, to escape detection. It should be remembered that these parents believe FGM is in the child's best interest and therefore is an expression of love. To counter such a belief, resources should be focused on increased education about the reality of FGM, not on criminal penalties, which are likely to have little deterrent value, or creating more laws when existing statutes that punish child abuse can suffice.

***Response:***

It is true that a conviction under any state or federal FGM law could result in a court's considering whether to terminate a Michigan parent's parental rights to a child born either before or after the conviction; however, as stated earlier, termination is not automatic and requires proof at the clear and convincing level that a child would be harmed if the parent-child relationship continued. Whether or not the child was alive at the time of the conviction or born years later, factors such as demonstrated remorse and rehabilitation on the part of the parent, among other things considered by the court, could be an important indicator that termination of the relationship was not in the child's best interest. Further, the bill is needed because it links specific intent to mutilate a child's genitals with conduct that constitutes grounds for losing one's parental rights with a child, something that existing laws may not necessarily cover.

***Against:***

There is some concern that the wording of the bills prohibiting FGM could inadvertently prevent persons undergoing surgery for gender dysphoria from completing their transition in their own time. Perhaps the terminology in the bills could be fine-tuned to better ensure that surgeries, whether cosmetic in nature or to relieve discomfort, could still be performed without fear of criminal penalties.

***Response:***

The bills only pertain to FGM procedures performed on children, and then only if the procedure was not medically necessary. Once 18, people would be free to exercise their preferences.

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