

---

HOUSE BILL 2190

---

State of Washington

63rd Legislature

2014 Regular Session

By Representative Scott

Prefiled 01/09/14. Read first time 01/13/14. Referred to Committee on Public Safety.

1 AN ACT Relating to female genital mutilation; amending RCW  
2 26.44.020; adding a new section to chapter 9A.36 RCW; creating a new  
3 section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.36 RCW  
6 to read as follows:

7 (1) A person is guilty of female genital mutilation when any of the  
8 following occur:

9 (a) The person knowingly circumcises, excises, or infibulates the  
10 whole or any part of the labia majora, labia minora, or clitoris;

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

15 (c) The person knowingly removes or causes or permits the removal  
16 of a female minor from this state for the purpose of circumcising,  
17 excising, or infibulating, in whole or in part, the labia majora, labia  
18 minora, or clitoris of such female.

1 (2) It shall not be a defense to prosecution for a violation of  
2 this section that the conduct described in subsection (1) of this  
3 section is required as a matter of custom, ritual, or religious  
4 practice, or that the minor on whom it is performed consented to the  
5 procedure, or the minor's parent or legal guardian consented to the  
6 procedure.

7 (3) If the action described in subsection (1) of this section is  
8 performed by a licensed physician during a surgical procedure, it shall  
9 not be a violation of this section if either of the following is true:

10 (a) The procedure is necessary to the physical health of the minor  
11 on whom it is performed; or

12 (b) The procedure is performed on a minor who is in labor or who  
13 has just given birth and is performed for medical purposes connected  
14 with that labor or birth.

15 (4) Female genital mutilation is a mandatory reportable offense for  
16 any personnel required to report child abuse under chapter 26.44 RCW.

17 (5) Female genital mutilation is a class B felony.

18 (6) If the prosecuting attorney has a reasonable belief that any  
19 person arrested or charged pursuant to this section is not a citizen or  
20 national of the United States, he or she shall report the information  
21 to the United States immigration and naturalization service in an  
22 expeditious manner.

23 **Sec. 2.** RCW 26.44.020 and 2012 c 259 s 1 are each amended to read  
24 as follows:

25 The definitions in this section apply throughout this chapter  
26 unless the context clearly requires otherwise.

27 (1) "Abuse or neglect" means sexual abuse, sexual exploitation, or  
28 injury of a child by any person under circumstances which cause harm to  
29 the child's health, welfare, or safety, excluding conduct permitted  
30 under RCW 9A.16.100; or the negligent treatment or maltreatment of a  
31 child by a person responsible for or providing care to the child. An  
32 abused child is a child who has been subjected to child abuse or  
33 neglect as defined in this section. Female genital mutilation under  
34 chapter 9A.36 RCW constitutes abuse. The belief that female genital  
35 mutilation is required as a matter of custom, ritual, or standard  
36 practice or consent to the conduct by the child on whom it is performed

1 or by the child's parent or legal guardian is not an affirmative  
2 defense to a charge of child abuse under this subsection.

3 (2) "Child" or "children" means any person under the age of  
4 eighteen years of age.

5 (3) "Child protective services" means those services provided by  
6 the department designed to protect children from child abuse and  
7 neglect and safeguard such children from future abuse and neglect, and  
8 conduct investigations of child abuse and neglect reports.  
9 Investigations may be conducted regardless of the location of the  
10 alleged abuse or neglect. Child protective services includes referral  
11 to services to ameliorate conditions that endanger the welfare of  
12 children, the coordination of necessary programs and services relevant  
13 to the prevention, intervention, and treatment of child abuse and  
14 neglect, and services to children to ensure that each child has a  
15 permanent home. In determining whether protective services should be  
16 provided, the department shall not decline to provide such services  
17 solely because of the child's unwillingness or developmental inability  
18 to describe the nature and severity of the abuse or neglect.

19 (4) "Child protective services section" means the child protective  
20 services section of the department.

21 (5) "Children's advocacy center" means a child-focused facility in  
22 good standing with the state chapter for children's advocacy centers  
23 and that coordinates a multidisciplinary process for the investigation,  
24 prosecution, and treatment of sexual and other types of child abuse.  
25 Children's advocacy centers provide a location for forensic interviews  
26 and coordinate access to services such as, but not limited to, medical  
27 evaluations, advocacy, therapy, and case review by multidisciplinary  
28 teams within the context of county protocols as defined in RCW  
29 26.44.180 and 26.44.185.

30 (6) "Clergy" means any regularly licensed or ordained minister,  
31 priest, or rabbi of any church or religious denomination, whether  
32 acting in an individual capacity or as an employee or agent of any  
33 public or private organization or institution.

34 (7) "Court" means the superior court of the state of Washington,  
35 juvenile department.

36 (8) "Department" means the state department of social and health  
37 services.

1 (9) "Family assessment" means a comprehensive assessment of child  
2 safety, risk of subsequent child abuse or neglect, and family strengths  
3 and needs that is applied to a child abuse or neglect report. Family  
4 assessment does not include a determination as to whether child abuse  
5 or neglect occurred, but does determine the need for services to  
6 address the safety of the child and the risk of subsequent  
7 maltreatment.

8 (10) "Family assessment response" means a way of responding to  
9 certain reports of child abuse or neglect made under this chapter using  
10 a differential response approach to child protective services. The  
11 family assessment response shall focus on the safety of the child, the  
12 integrity and preservation of the family, and shall assess the status  
13 of the child and the family in terms of risk of abuse and neglect  
14 including the parent's or guardian's or other caretaker's capacity and  
15 willingness to protect the child and, if necessary, plan and arrange  
16 the provision of services to reduce the risk and otherwise support the  
17 family. No one is named as a perpetrator, and no investigative finding  
18 is entered in the record as a result of a family assessment.

19 (11) "Founded" means the determination following an investigation  
20 by the department that, based on available information, it is more  
21 likely than not that child abuse or neglect did occur.

22 (12) "Inconclusive" means the determination following an  
23 investigation by the department, prior to October 1, 2008, that based  
24 on available information a decision cannot be made that more likely  
25 than not, child abuse or neglect did or did not occur.

26 (13) "Institution" means a private or public hospital or any other  
27 facility providing medical diagnosis, treatment, or care.

28 (14) "Law enforcement agency" means the police department, the  
29 prosecuting attorney, the state patrol, the director of public safety,  
30 or the office of the sheriff.

31 (15) "Malice" or "maliciously" means an intent, wish, or design to  
32 intimidate, annoy, or injure another person. Such malice may be  
33 inferred from an act done in willful disregard of the rights of  
34 another, or an act wrongfully done without just cause or excuse, or an  
35 act or omission of duty betraying a willful disregard of social duty.

36 (16) "Negligent treatment or maltreatment" means an act or a  
37 failure to act, or the cumulative effects of a pattern of conduct,  
38 behavior, or inaction, that evidences a serious disregard of

1 consequences of such magnitude as to constitute a clear and present  
2 danger to a child's health, welfare, or safety, including but not  
3 limited to conduct prohibited under RCW 9A.42.100. When considering  
4 whether a clear and present danger exists, evidence of a parent's  
5 substance abuse as a contributing factor to negligent treatment or  
6 maltreatment shall be given great weight. The fact that siblings share  
7 a bedroom is not, in and of itself, negligent treatment or  
8 maltreatment. Poverty, homelessness, or exposure to domestic violence  
9 as defined in RCW 26.50.010 that is perpetrated against someone other  
10 than the child does not constitute negligent treatment or maltreatment  
11 in and of itself.

12 (17) "Pharmacist" means any registered pharmacist under chapter  
13 18.64 RCW, whether acting in an individual capacity or as an employee  
14 or agent of any public or private organization or institution.

15 (18) "Practitioner of the healing arts" or "practitioner" means a  
16 person licensed by this state to practice podiatric medicine and  
17 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
18 medicine and surgery, or medicine and surgery or to provide other  
19 health services. The term "practitioner" includes a duly accredited  
20 Christian Science practitioner. A person who is being furnished  
21 Christian Science treatment by a duly accredited Christian Science  
22 practitioner will not be considered, for that reason alone, a neglected  
23 person for the purposes of this chapter.

24 (19) "Professional school personnel" include, but are not limited  
25 to, teachers, counselors, administrators, child care facility  
26 personnel, and school nurses.

27 (20) "Psychologist" means any person licensed to practice  
28 psychology under chapter 18.83 RCW, whether acting in an individual  
29 capacity or as an employee or agent of any public or private  
30 organization or institution.

31 (21) "Screened-out report" means a report of alleged child abuse or  
32 neglect that the department has determined does not rise to the level  
33 of a credible report of abuse or neglect and is not referred for  
34 investigation.

35 (22) "Sexual exploitation" includes: (a) Allowing, permitting, or  
36 encouraging a child to engage in prostitution by any person; or (b)  
37 allowing, permitting, encouraging, or engaging in the obscene or

1 pornographic photographing, filming, or depicting of a child by any  
2 person.

3 (23) "Sexually aggressive youth" means a child who is defined in  
4 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

5 (24) "Social service counselor" means anyone engaged in a  
6 professional capacity during the regular course of employment in  
7 encouraging or promoting the health, welfare, support, or education of  
8 children, or providing social services to adults or families, including  
9 mental health, drug and alcohol treatment, and domestic violence  
10 programs, whether in an individual capacity, or as an employee or agent  
11 of any public or private organization or institution.

12 (25) "Supervising agency" means an agency licensed by the state  
13 under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has  
14 entered into a performance-based contract with the department to  
15 provide child welfare services.

16 (26) "Unfounded" means the determination following an investigation  
17 by the department that available information indicates that, more  
18 likely than not, child abuse or neglect did not occur, or that there is  
19 insufficient evidence for the department to determine whether the  
20 alleged child abuse did or did not occur.

21 NEW SECTION. **Sec. 3.** Each county prosecuting attorney shall:

22 (1) Keep annual statistics of the following information:

23 (a)(i) The number of offenders that are charged with female genital  
24 mutilation under section 1 of this act, and (ii) the number of  
25 offenders that are charged and convicted under section 1(1) of this  
26 act; and

27 (b) The number of reports that the prosecuting attorney's office  
28 receives that are required under section 1(4) of this act, the number  
29 of offenders that are charged pursuant to the report, and the number of  
30 offenders that are convicted pursuant to the report.

31 (2) Submit its annual report to the administrative office of the  
32 courts. The administrative office of the courts shall submit a  
33 consolidated report to the appropriate committees of the legislature by  
34 December 1st of each year.

--- END ---