



HRSP NEWSLETTER

U.S. Department of Justice, Criminal Division, Human Rights and Special Prosecutions Section

January 2021

REVISED FGM ACT STRENGTHENS THE PENALTIES FOR PERFORMING FGM ON GIRLS AND CLARIFIES THE CONSTITUTIONAL BASIS FOR THE LAW

On January 5, 2021, the Strengthening the Opposition to Female Genital Mutilation Act 2020 (the STOP FGM Act, HR 6100) became law. The STOP FGM Act clarifies and amends provisions of the underlying 1996 and 2013 FGM laws, which prohibit female genital mutilation (FGM) of girls in the United States and the transportation of girls outside the United States for the purpose of having FGM performed. *See* 18 U.S.C. §116.

FGM involves the partial or total removal or injury of part or all of the external female genitalia for non-medical reasons and includes a range of acts including the pricking, piercing, incising, cauterizing or scraping of the female genitalia, a clitoridectomy (partial or total removal of the clitoris and/or prepuce), excision of the clitoris and labia minor, and infibulation (stitching together the two sides of the vulva leaving only a small opening for urine to escape). FGM has no known health benefits and can result in severe physical and psychological damage.

Practiced in over 29 countries, a 2013 UNICEF report estimated over 200 million girls and women had been subjected to FGM, and the Centers for Disease Control and Prevention (CDC) estimates that half a million women and girls in the United States have already suffered FGM or are at risk for being subjected to FGM in the future. Performing FGM on girls under 18 years of age in the United States is against the law. It is also illegal to assist in carrying out FGM on a girl younger than 18 and to take girls out of the U.S. – or attempt to take them out of the U.S. – to have FGM performed.

In 2018, in a case involving the prosecution of a doctor alleged to have performed FGM on girls at a local clinic, a United States District Court Judge for the Eastern District of Michigan deemed a portion of the FGM statute, which covered the cutting of girls in the United States (section 116(a)), unconstitutional. That court found that Congress did not have the constitutional authority to enact this provision of the law (*See United States v. Nagarwala*, 350 F. Supp. 3d 613, 631 (E.D. Mich. 2018)). The Department of Justice urged Congress to amend section 116(a), to clarify Congress's authority to criminalize FGM and to ensure that domestic violations of FGM can be prosecuted in federal courts. The STOP FGM Act amends the FGM statute and specifies that the FGM cases may be prosecuted when the facts involve a link to interstate or foreign commerce, such as travel by the person performing the cutting or travel of the girl to the location of the cutter. *See* 18 U.S.C. §116. The amendment also increases the maximum penalty to 10 years in prison, expands the scope of punishable acts, and adds mandatory reporting requirements for the Attorney General, in consultation with other federal agencies, on issues such as the number of girls and women at risk for FGM in the U.S., protections available, and education on the risks associated with FGM.

The Department of Justice is committed to eradicating this harmful practice. As noted by Assistant Attorney General Stephen E. Boyd in March 2020: “Female genital mutilation (FGM) is a form of gender-based violence and child abuse that harms victims not only when they are girls, suffering the immediate trauma of the act, but also throughout their lives as women, when it often results in a range of physical and psychological harms.”

The Human Rights and Special Prosecutions Section (HRSP) of the Department of Justice works with other U.S. agencies, including Homeland Security Investigations (HSI), Immigration and Customs Enforcement (ICE), and the Federal Bureau of Investigation (FBI), to end FGM and prosecute those who perform or facilitate genital

mutilation of girls or who take girls outside the U.S. to have the harmful procedure done. If you have information about someone who is performing FGM in the U.S., or if you or someone you know of may be at risk of having the procedure done here or at risk of being taken outside the U.S. to have FGM performed, please contact the Human Rights Violators War Crimes Center at www.ICE.gov/tips, or by phone at 1-802-872-6199, or contact the FBI at <https://tips.fbi.gov> or by phone at 1-800-CALLFBI (225-5324). You do not have to identify yourself when providing information. You can also contact your local child protection agency or call 1-800-4-A-CHILD (800-422- 4453).

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