



This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 9: Female Genital Mutilation/Clarify Prohibition.

2019-2020 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	March 19, 2019
Introduced by:	Sens. Krawiec, Sawyer, Ballard	Prepared by:	Jennifer H. Bedford
Analysis of:	PCS to First Edition S9-CSTT-9		Staff Attorney

OVERVIEW: *The PCS for Senate Bill 9 would specifically prohibit the genital mutilation of a female under the age of 18.*

BACKGROUND: In November 2018, a federal district court in Michigan granted a defendant's motion to dismiss federal criminal charges for female genital mutilation. The court concluded that federalism requires the States to possess primary authority for defining and enforcing criminal law. Congress did not have the authority to pass a federal statute prohibiting female genital mutilation. (*U. S. v. Jumana Nagarwala*)

According to the AHA Foundation, 28 states in the U. S. now have legislation that specifically addresses female genital mutilation (FGM). FGM refers to all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for cultural or other non-medical reasons.

CURRENT LAW: It is possible that some conduct considered female genital mutilation may fall under existing criminal laws such as:

G. S. 14-29. Castration or other maiming without malice aforethought.

It is a class E felony to intentionally and unlawfully maim or disfigure any of the privy members of another person with intent to maim or disfigure.

G. S. 14-30. Malicious maiming.

It is a class C felony to maliciously and unlawfully maim or disfigure any of the privy members of another person with the intent to maim or disfigure.

G. S. 14-318.4. Felony child abuse.

It is currently a class B2 felony for a parent or person providing care or supervision, to intentionally inflict an assault which results in a serious bodily injury on a child less than 16 years of age.

"Serious bodily injury" includes bodily injury that causes serious permanent disfigurement or impairment of the function of any bodily member or organ.

Aiding and abetting.

If a person contributes to the commission of a crime by advising, instigating, encouraging, procuring, or helping someone else commit the crime, the person is guilty of aiding and abetting. Aiding and abetting is generally punished as the same level offense as the underlying crime.

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BILL ANALYSIS:

Senate Bill 9 and the PCS would create the following three Class C felonies:

- To knowingly and unlawfully mutilate the female genitals of a child under 18 years old.
- For a parent or person providing care, to knowingly and unlawfully consent or allow the mutilation of the female genitals of a child under 18 years old.
- For a parent or person providing care, to knowingly and unlawfully remove or permit the removal of a female under 18 years old from North Carolina, for the purpose of mutilating the female's genitals.

Senate Bill 9 and the PCS would:

- Provide certain medical exceptions for the crime of female genital mutilation on a child.
- Provide that the practice of female genital mutilation as a custom or ritual is not a defense.

The PCS for Senate Bill 9 would provide codified legislative intent to protect girls from the harm of female genital mutilation.

The PCS for Senate Bill 9 would change the title of the newly created statute to reflect that the offense only applies to a child.

The PCS for Senate Bill 9 would make conforming changes by structuring the new offenses like G. S. 14-32, assault with a deadly weapon with intent to kill or inflicting serious injury.

EFFECTIVE DATE: This act would become effective December 1, 2019, and apply to offenses committed on or after that date.

Glossary Terms

Circumcision: Partial or total removal of skin.

Clitoris: A highly sensitive female sexual organ located at the front end of the vulva.

Excision: Removal by cutting out.

Infibulation: Narrowing of the vaginal orifice by sealing or sewing.

Labia Majora: The larger outer folds of the vulva.

Labia Minora: The smaller inner folds of the vulva.

Vulva: The female external genitals.