

SENATE BILL No. 240

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-19-13; IC 31-34-1-2; IC 34-11-2-16; IC 34-24-3-5; IC 35-31.5-2-130.4; IC 35-42-2-10.

Synopsis: Female genital mutilation. Requires the office of women's health to perform certain actions relating to female genital mutilation. Provides that a child is a child in need of services if before the child becomes 18 years of age the child is a victim of female genital mutilation. Provides that a person who: (1) knowingly or intentionally performs the act of female genital mutilation on a child who is less than 18 years of age; (2) is a parent, guardian, or custodian of a child and consents to, permits, or facilitates the act of female genital mutilation to be performed on the child; or (3) knowingly transports or facilitates the transportation of a child for the purpose of having the act of female genital mutilation performed on the child; commits the offense of female genital mutilation, a Level 3 felony. Provides a defense to prosecution of female genital mutilation. Provides certain circumstances where a defense to prosecution of female genital mutilation does not apply. Defines "female genital mutilation". Provides that the license of a physician or a licensed health care professional shall be permanently revoked if the physician or licensed health care professional commits the offense of female genital mutilation. Provides that a person who has reason to believe that a child may be a victim of female genital mutilation has a duty to report the child abuse or neglect. Provides that an action for civil female genital mutilation must be commenced not later than 10 years after the eighteenth birthday of the child. Provides that a victim may seek certain remedies in an action against the defendant for civil female genital mutilation.

Effective: July 1, 2021.

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January 11, 2021, read first time and referred to Committee on Health and Provider Services.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 240

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-19-13-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. The office is
 3 established for the following purposes:
 4 (1) To educate and advocate for women's health by requesting that
 5 the state department, either on its own or in partnership with other
 6 entities, establish appropriate forums, programs, or initiatives
 7 designed to educate the public regarding women's health, with an
 8 emphasis on preventive health and healthy lifestyles.
 9 (2) To assist the state health commissioner in identifying,
 10 coordinating, and establishing priorities for programs, services,
 11 and resources the state should provide for women's health issues
 12 and concerns relating to the reproductive, menopausal, and
 13 postmenopausal phases of a woman's life, with an emphasis on
 14 postmenopausal health.
 15 (3) To serve as a clearinghouse and resource for information
 16 regarding women's health data, strategies, services, and programs
 17 that address women's health issues, including the following:



- 1 (A) Diseases that significantly impact women, including heart
 2 disease, cancer, and osteoporosis.
 3 (B) Menopause.
 4 (C) Mental health.
 5 (D) Substance abuse.
 6 (E) Sexually transmitted diseases.
 7 (F) Sexual assault and domestic violence.
 8 **(G) Female genital mutilation (as defined in**
 9 **IC 35-42-2-10).**
 10 (4) To collect, classify, and analyze relevant research information
 11 and data conducted or compiled by:
 12 (A) the state department; or
 13 (B) other entities in collaboration with the state department;
 14 and to provide interested persons with information regarding the
 15 research results, except as prohibited by law.
 16 (5) To develop and recommend funding and program activities for
 17 educating the public on women's health initiatives, including the
 18 following:
 19 (A) Health needs throughout a woman's life.
 20 (B) Diseases that significantly affect women, including heart
 21 disease, cancer, and osteoporosis.
 22 (C) Access to health care for women.
 23 (D) Poverty and women's health.
 24 (E) The leading causes of morbidity and mortality for women.
 25 (F) Special health concerns of minority women.
 26 (6) To make recommendations to the state health commissioner
 27 regarding programs that address women's health issues for
 28 inclusion in the state department's biennial budget and strategic
 29 planning.
 30 (7) To seek funding from private or governmental entities to carry
 31 out the purposes of this chapter.
 32 (8) To prepare materials for publication and dissemination to the
 33 public on women's health.
 34 (9) To conduct public educational forums in Indiana to raise
 35 public awareness and to educate citizens about women's health
 36 programs, issues, and services.
 37 (10) To coordinate the activities and programs of the office with
 38 other entities that focus on women's health or women's issues,
 39 including the Indiana commission for women (IC 4-23-25-3).
 40 (11) To represent the state health commissioner, upon request,
 41 before the general assembly and the Indiana commission for
 42 women established by IC 4-23-25-3.



1 (12) To provide an annual report to the governor, the legislative
 2 council, and the Indiana commission for women regarding the
 3 successes of the programs of the office, priorities and services
 4 needed for women's health in Indiana, and areas for improvement.
 5 A report provided under this subdivision to the legislative council
 6 must be in an electronic format under IC 5-14-6.

7 This section does not allow the director or any employees of the office
 8 to advocate, promote, refer to, or otherwise advance abortion or
 9 abortifacients.

10 SECTION 2. IC 16-19-13-8 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2021]: **Sec. 8. In addition to performing the duties described in
 13 section 3 of this chapter, the office shall do the following:**

14 **(1) Develop and administer a program of community
 15 education, prevention, and outreach activities regarding:**

16 **(A) the health risks and emotional trauma inflicted by the
 17 practice of female genital mutilation; and**

18 **(B) informing the community of the criminal penalties for
 19 committing female genital mutilation.**

20 **(2) Develop and disseminate information to teachers and law
 21 enforcement officers regarding:**

22 **(A) female genital mutilation;**

23 **(B) recognizing the risk factors associated with female
 24 genital mutilation;**

25 **(C) recognizing the signs that an individual may be a
 26 victim of female genital mutilation; and**

27 **(D) the criminal penalties for committing female genital
 28 mutilation.**

29 **(3) Develop policies and procedures to promote partnerships
 30 between departments, agencies, and political subdivisions,
 31 including the department of child services, the office of family
 32 and social services, the department of education, and other
 33 governmental entities and nongovernmental organizations to
 34 prevent female genital mutilation and to protect and provide
 35 assistance to victims of female genital mutilation.**

36 **(4) Outline best practices for responses to victims of female
 37 genital mutilation.**

38 **(5) Develop policies and procedures for the training of
 39 providers of health services:**

40 **(A) regarding the best practices for responses to victims of
 41 female genital mutilation; and**

42 **(B) to recognize:**



- 1 (i) the risk factors associated with female genital
 2 mutilation;
 3 (ii) the signs that an individual may be a victim of female
 4 genital mutilation; and
 5 (iii) the criminal penalties for committing female genital
 6 mutilation.

7 (6) Collaborate with health care practitioners of each county
 8 to obtain annual statistics concerning cases of female genital
 9 mutilation and provide the information, which includes no
 10 personal identifying information, in the annual report
 11 compiled under section 3(12) of this chapter.

12 SECTION 3. IC 31-34-1-2, AS AMENDED BY P.L.142-2020,
 13 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2021]: Sec. 2. (a) A child is a child in need of services if
 15 before the child becomes eighteen (18) years of age:

- 16 (1) the child's physical or mental health is seriously endangered
 17 due to injury by the act or omission of the child's parent, guardian,
 18 or custodian; and
 19 (2) the child needs care, treatment, or rehabilitation that:
 20 (A) the child is not receiving; and
 21 (B) is unlikely to be provided or accepted without the coercive
 22 intervention of the court.

23 (b) A child is a child in need of services if, before the child becomes
 24 eighteen (18) years of age, the child:

- 25 (1) is a victim of:
 26 (A) an offense under IC 35-42-1-2.5;
 27 (B) an offense under IC 35-42-2-1;
 28 (C) an offense under IC 35-42-2-1.3;
 29 (D) an offense under IC 35-42-2-1.5;
 30 (E) an offense under IC 35-42-2-9; ~~or~~
 31 **(F) an offense under IC 35-42-2-10; or**
 32 ~~(F)~~ **(G)** an offense under IC 35-46-1-4; and
 33 (2) needs care, treatment, or rehabilitation that:
 34 (A) the child is not receiving; and
 35 (B) is unlikely to be provided or accepted without the coercive
 36 intervention of the court.

37 (c) A child is a child in need of services if, before the child becomes
 38 eighteen (18) years of age, the child:

- 39 (1) lives in the same household as an adult who:
 40 (A) committed:
 41 (i) an offense described in subsection (b)(1); or
 42 (ii) an offense under IC 35-42-1-1, IC 35-42-1-2,



1 IC 35-42-1-3, IC 35-42-1-4, or IC 35-42-1-5;
 2 against another child who lives in the household and the
 3 offense resulted in a conviction or a judgment under
 4 IC 31-34-11-2; or
 5 (B) has been charged with committing an offense described in
 6 clause (A) against another child who lives in the household
 7 and is awaiting trial; and
 8 (2) needs care, treatment, or rehabilitation that:
 9 (A) the child is not receiving; and
 10 (B) is unlikely to be provided or accepted without the coercive
 11 intervention of the court.

12 (d) Evidence that the illegal manufacture of a drug or controlled
 13 substance is occurring on property where a child resides creates a
 14 rebuttable presumption that the child's physical or mental health is
 15 seriously endangered.

16 SECTION 4. IC 34-11-2-16 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2021]: **Sec. 16. (a) An action for civil female genital mutilation
 19 (IC 34-24-3-5) must be commenced not later than ten (10) years
 20 after the eighteenth birthday of the child.**

21 **(b) An action for any damages under this section may include
 22 the following:**

- 23 (1) Actual damages.
 24 (2) Compensatory damages.
 25 (3) Punitive damages.
 26 (4) Treble damages (as described in IC 34-24-3-5), on proof of
 27 actual damages if the defendant's acts were willful and
 28 malicious.
 29 (5) Attorney's fees and costs.
 30 (6) Any other appropriate relief.

31 SECTION 5. IC 34-24-3-5 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2021]: **Sec. 5. If a victim suffers a pecuniary loss as a result of a
 34 violation of IC 35-42-2-10 (female genital mutilation), the victim
 35 may bring a civil action against the person in violation of
 36 IC 35-42-2-10, even if the person has not been prosecuted or
 37 convicted of the offense under IC 35-42-2-10. In an action under
 38 this section, a victim may seek an award of the following:**

- 39 (1) Actual damages caused by the violation if the victim has
 40 not been awarded damages under IC 35-42-2-10.
 41 (2) An amount not to exceed three (3) times the amount of
 42 actual damages of the victim suffering the loss.



1 **(3) The costs of the action.**

2 **(4) A reasonable attorney's fee.**

3 SECTION 6. IC 35-31.5-2-130.4 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2021]: **Sec. 130.4. "Female genital
6 mutilation", for purposes of IC 35-42-2-10, has the meaning set
7 forth in IC 35-42-2-10(a).**

8 SECTION 7. IC 35-42-2-10 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2021]: **Sec. 10. (a) As used in this section, "female genital
11 mutilation" means any procedure that involves the partial or total
12 removal of the external female genitalia, or any harmful procedure
13 to the female genitalia, including the following:**

14 **(1) Clitoridectomy.**

15 **(2) Partial or total removal of the clitoris or the prepuce.**

16 **(3) Excision or the partial or total removal of the clitoris and
17 the labia minora, with or without excision of the labia majora.**

18 **(4) Infibulation or the narrowing of the vaginal orifice with
19 the creation of a covering seal by cutting and appositioning
20 the labia minora or the labia majora, with or without excision
21 of the clitoris.**

22 **(5) Pricking, incising, or scraping, and cauterizing the genital
23 area.**

24 **(6) Any other procedure intended to alter the structure or
25 function of the female genitalia for nonmedical reasons.**

26 **(b) A person who:**

27 **(1) knowingly or intentionally performs the act of female
28 genital mutilation on a child who is less than eighteen (18)
29 years of age;**

30 **(2) is a parent, guardian, or custodian of the child and
31 consents to, permits, or facilitates an act described in
32 subdivision (1) to be performed on the child; or**

33 **(3) knowingly transports or facilitates the transportation of
34 the child for the purpose of having an act described in
35 subdivision (1) performed on the child;**

36 **commits the offense of female genital mutilation, a Level 3 felony.**

37 **(c) It is a defense to a prosecution described in this section that:**

38 **(1) the person performing the act is a physician (as defined in
39 IC 16-18-2-282) or a licensed health care professional (as
40 defined in IC 16-18-2-162) and the act is within the scope of
41 the person's license and official duties; or**

42 **(2) the act is performed for medical purposes to preserve or**



- 1 **protect the physical health of the child.**
2 **(d) It is not a defense to a prosecution described in this section**
3 **that:**
4 **(1) the child or the child's parent, guardian, or custodian**
5 **consented to the act described in subsection (b); or**
6 **(2) the act described in subsection (b) is:**
7 **(A) required by custom or is standard practice of a**
8 **particular group; or**
9 **(B) performed in connection with a religious ritual.**
10 **(e) In addition to any criminal and civil penalties, a violation**
11 **under this section shall result in the permanent revocation of the**
12 **license of the physician or licensed health care professional.**
13 **(f) A person who has reason to believe that a child may be a**
14 **victim of female genital mutilation shall immediately make a**
15 **report as required under IC 31-33-5.**

