

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 ENROLLED ACT No. 240

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

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

SECTION 1. IC 16-19-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. The office is established for the following purposes:

- (1) To educate and advocate for women's health by requesting that the state department, either on its own or in partnership with other entities, establish appropriate forums, programs, or initiatives designed to educate the public regarding women's health, with an emphasis on preventive health and healthy lifestyles.
- (2) To assist the state health commissioner in identifying, coordinating, and establishing priorities for programs, services, and resources the state should provide for women's health issues and concerns relating to the reproductive, menopausal, and postmenopausal phases of a woman's life, with an emphasis on postmenopausal health.
- (3) To serve as a clearinghouse and resource for information regarding women's health data, strategies, services, and programs that address women's health issues, including the following:
 - (A) Diseases that significantly impact women, including heart disease, cancer, and osteoporosis.
 - (B) Menopause.
 - (C) Mental health.

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- (D) Substance abuse.
 - (E) Sexually transmitted diseases.
 - (F) Sexual assault and domestic violence.
 - (G) Female genital mutilation (as defined in IC 35-42-2-10).**
- (4) To collect, classify, and analyze relevant research information and data conducted or compiled by:
- (A) the state department; or
 - (B) other entities in collaboration with the state department;
- and to provide interested persons with information regarding the research results, except as prohibited by law.
- (5) To develop and recommend funding and program activities for educating the public on women's health initiatives, including the following:
- (A) Health needs throughout a woman's life.
 - (B) Diseases that significantly affect women, including heart disease, cancer, and osteoporosis.
 - (C) Access to health care for women.
 - (D) Poverty and women's health.
 - (E) The leading causes of morbidity and mortality for women.
 - (F) Special health concerns of minority women.
- (6) To make recommendations to the state health commissioner regarding programs that address women's health issues for inclusion in the state department's biennial budget and strategic planning.
- (7) To seek funding from private or governmental entities to carry out the purposes of this chapter.
- (8) To prepare materials for publication and dissemination to the public on women's health.
- (9) To conduct public educational forums in Indiana to raise public awareness and to educate citizens about women's health programs, issues, and services.
- (10) To coordinate the activities and programs of the office with other entities that focus on women's health or women's issues, including the Indiana commission for women (IC 4-23-25-3).
- (11) To represent the state health commissioner, upon request, before the general assembly and the Indiana commission for women established by IC 4-23-25-3.
- (12) To provide an annual report to the governor, the legislative council, and the Indiana commission for women regarding the successes of the programs of the office, priorities and services needed for women's health in Indiana, and areas for improvement.



A report provided under this subdivision to the legislative council must be in an electronic format under IC 5-14-6.

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

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

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

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

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

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

(A) female genital mutilation;

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

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

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

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

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

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

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

(B) to recognize:

(i) the risk factors associated with female genital mutilation;

(ii) the signs that an individual may be a victim of female genital mutilation; and



(iii) the criminal penalties for committing female genital mutilation.

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

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

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

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

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

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

- (1) lives in the same household as an adult who:
 - (A) committed:
 - (i) an offense described in subsection (b)(1); or
 - (ii) an offense under IC 35-42-1-1, IC 35-42-1-2, IC 35-42-1-3, IC 35-42-1-4, or IC 35-42-1-5;
 against another child who lives in the household and the offense resulted in a conviction or a judgment under IC 31-34-11-2; or



- (B) has been charged with committing an offense described in clause (A) against another child who lives in the household and is awaiting trial; and
- (2) needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.
- (d) Evidence that the illegal manufacture of a drug or controlled substance is occurring on property where a child resides creates a rebuttable presumption that the child's physical or mental health is seriously endangered.

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

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

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

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

- (1) Actual damages caused by the violation if the victim has not been awarded damages under IC 35-42-2-10.**
- (2) An amount not to exceed three (3) times the amount of actual damages of the victim suffering the loss.**
- (3) The costs of the action.**
- (4) A reasonable attorney's fee.**

SECTION 6. IC 35-31.5-2-130.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2021]: **Sec. 130.4. "Female genital mutilation"**, for purposes of IC 35-42-2-10, has the meaning set forth in IC 35-42-2-10(a).

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

- (1) Clitoridectomy.
- (2) Partial or total removal of the clitoris or the prepuce.
- (3) Excision or the partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora.
- (4) Infibulation or the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia minora or the labia majora, with or without excision of the clitoris.
- (5) Pricking, incising, or scraping, and cauterizing the genital area.
- (6) Any other procedure intended to alter the structure or function of the female genitalia for nonmedical reasons.

(b) A person who:

- (1) knowingly or intentionally performs the act of female genital mutilation on a child who is less than eighteen (18) years of age;
- (2) is a parent, guardian, or custodian of the child and consents to, permits, or facilitates an act described in subdivision (1) to be performed on the child; or
- (3) knowingly transports or facilitates the transportation of the child for the purpose of having an act described in subdivision (1) performed on the child;

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

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

- (1) the person performing the act is a physician (as defined in IC 16-18-2-282) or a licensed health care professional (as defined in IC 16-18-2-162) and the act is within the scope of the person's license and official duties; or
- (2) the act is performed for medical purposes to preserve or protect the physical health of the child.

(d) It is not a defense to a prosecution described in this section that:

- (1) the child or the child's parent, guardian, or custodian



consented to the act described in subsection (b); or

(2) the act described in subsection (b) is:

(A) required by custom or is standard practice of a particular group; or

(B) performed in connection with a religious ritual.

(e) In addition to any criminal and civil penalties, a violation under this section shall result in the permanent revocation of the license of the physician or licensed health care professional.

(f) A person who has reason to believe that a child may be a victim of female genital mutilation shall immediately make a report as required under IC 31-33-5.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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