

HOUSE BILL 1364

By Weaver

AN ACT to amend Tennessee Code Annotated, Title 28;
Title 39 and Title 40, relative to female genital
mutilation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-110, is amended by deleting the section and substituting instead the following:

(a) As used in this section:

(1) "Facilitate" means raising, soliciting, collecting, or providing material support or resources with intent that such will be used, in whole or in part, to plan, prepare, carry out, or aid in any act of female genital mutilation or hindering the prosecution of an act of female genital mutilation or the concealment of an act of female genital mutilation;

(2) "Female genital mutilation," "mutilate," or "mutilation" means:

(A) The excision, infibulation or circumcision, in whole or in part, of the labia majora, labia minora, or clitoris of another;

(B) The narrowing of the vaginal opening through the creation of a covering seal formed by cutting and repositioning the inner or outer labia, with or without the removal of the clitoris; or

(C) Any harmful procedure to the genitalia, including pricking, piercing, incising, scraping, or cauterizing;

(3) "Hindering the prosecution of female genital mutilation" includes, but is not limited to, the following:

(A) Harboring or concealing a person who is known or believed by the facilitator to be planning to commit an act of female genital mutilation;

(B) Warning a person who is known or believed by the facilitator to be planning to commit an act of female genital mutilation of impending discovery or apprehension; or

(C) Suppressing any physical evidence that might aid in the discovery or apprehension of a person who is known or believed by the facilitator to be planning to commit an act of female genital mutilation; and

(4) "Material support or resources" means currency or other financial securities, financial services, instruments of value, lodging, training, false documentation or identification, medical equipment, computer equipment, software, facilities, personnel, transportation, and other physical assets.

(b) It is an offense for a person to:

(1) Knowingly mutilate a female;

(2) Knowingly facilitate the mutilation of a female; or

(3) Knowingly transport or facilitate the transportation of a female for the purpose of mutilation.

(c) A violation of subsection (b) is a Class D felony.

(d) It shall not be a defense to prosecution for a violation of subsection (b) that a female genital mutilation procedure is:

(1) Required as a matter of belief, custom, or ritual;

(2) Consented to by the minor on whom the procedure is performed; or

(3) Consented to by the parent or legal guardian of the minor on whom the procedure is performed.

(e) A procedure is not a violation of subsection (b) if the procedure is:

(1) Necessary to the physical health of the person on whom it is performed; or

(2) Performed on a person who is in labor or who has just given birth for medical purposes connected with that labor or birth.

(f) Any physician, physician in training, certified nurse or midwife, or any other medical professional who performs, participates in, or facilitates a female genital mutilation procedure that does not fall under an exception listed in subsection (e) shall, in addition to the criminal penalties under this act, have the person's professional license or certification permanently revoked.

(g) Nothing in this section prohibits prosecution under any other law.

(h) All property, including money, used in the course of, intended for use in the course of, derived from, or realized through, conduct in violation of subsection (b) is subject to civil forfeiture in accordance with §§ 39-11-701 - 39-11-717.

(i)

(1) A victim of female genital mutilation may bring an action under this subsection (i) against a person or an entity who:

(A) Knowingly mutilated or attempted to mutilate the victim;

(B) Knowingly facilitated the victim's mutilation; or

(C) Knowingly transported or facilitated the victim's transportation outside of this state for the purpose of mutilation.

(2) In an action under this subsection (i), the court may award all of the following:

(A) Damages, including, but not limited to, damages or loss due to pain, suffering, inconvenience, physical impairment, physical disfigurement, loss of society and companionship, and loss of consortium;

(B) Two (2) times the amount of damages sustained; and

(C) Reasonable attorney's fees and costs.

(3) If the victim is a minor whose legal guardian is alleged to have committed or facilitated the female genital mutilation, then a court may appoint a guardian ad litem to represent the minor.

(j) Any person or entity who knowingly commits an act of female genital mutilation, knowingly facilitates an act of female genital mutilation, or intentionally coerces, induces, or solicits a person who commits an act of female genital mutilation, shall be liable jointly and severally for all damages, attorney's fees, and costs awarded under subsection (i).

(k)

(1) Notwithstanding § 28-3-104, a victim of female genital mutilation may commence an action under this section to recover damages sustained because of the female genital mutilation at any time prior to five (5) years after the commission of the act of female genital mutilation or, if the victim was a child at the time of the act, before the victim reaches twenty-one (21) years of age, whichever occurs later.

(2) If a criminal prosecution under this section proceeds against any person who committed the act of female genital mutilation, facilitated the actions of the person who committed the act of female genital mutilation, or coerced, induced, or solicited the person who committed the act of female genital mutilation, the running of the period shall be suspended during the pendency of such prosecution.

(l) A final judgment or decree rendered in favor of the state in any criminal proceeding under this section shall preclude the defendant from denying the essential facts established in that proceeding in any subsequent civil action pursuant to this act.

SECTION 2. Tennessee Code Annotated, Section 39-15-401(g), is amended by deleting the subsection and substituting instead the following:

(g) For purposes of this section, "adversely affect the child's health and welfare" may include, but not be limited to, the natural effects of starvation or dehydration or acts of female genital mutilation as defined in § 39-13-110.

SECTION 3. Tennessee Code Annotated, Section 39-15-402(c), is amended by deleting the punctuation at the end of the subsection and substituting instead the language "and acts of female genital mutilation as defined in § 39-13-110."

SECTION 4. Tennessee Code Annotated, Section 40-2-101, is amended by adding the following new subsection:

() A person may be prosecuted, tried and punished for any offense committed against a child on or after July 1, 2019, that constitutes the offense of female genital mutilation, under § 39-13-110, no later than twenty-five (25) years from the date the child becomes eighteen (18) years of age.

SECTION 5. This act shall take effect July 1, 2019, the public welfare requiring it.