

CHAPTER 216

CRIMINAL LAW AND PROCEDURE

SENATE BILL 99-096

BY SENATORS Rupert, Dyer, Feeley, Hernandez, Linkhart, Martinez, Nichol, Pascoe, Phillips, Reeves, Tanner, Tebedo, Weddig, and Wham;
also REPRESENTATIVES Morrison, Bacon, Chavez, Clarke, Dean, Gagliardi, George, Grossman, Kaufman, Larson, Leyba, Mace, Miller, Plant, Ragsdale, Saliman, Scott, Stengel, Tochtrop, Tupa, Veiga, S. Williams, Windels, Witwer, and Zimmerman.

AN ACT

CONCERNING FEMALE GENITAL MUTILATION, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 30
Female Genital Mutilation Outreach**

25-30-101. Legislative declaration. THE GENERAL ASSEMBLY DECLARES IT TO BE IN THE INTEREST OF PUBLIC HEALTH, SAFETY, AND WELFARE TO PROTECT THE FEMALE CHILDREN OF THIS STATE FROM THE PHYSICAL AND PSYCHOLOGICAL HARM ASSOCIATED WITH FEMALE GENITAL MUTILATION. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT, ALTHOUGH THE PRACTICE OF FEMALE GENITAL MUTILATION IS AN ACCEPTED PRACTICE IN CERTAIN CULTURES, PERSONS SHOULD BE MADE AWARE OF THE NATURE AND EXTENT OF THE POTENTIAL LONG-TERM PHYSICAL, EMOTIONAL, AND PSYCHOLOGICAL TRAUMA THAT CAN RESULT FROM SUCH CUSTOM. THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE PROTECTION OF THE PUBLIC REQUIRES AN OUTREACH PROGRAM TO EDUCATE THE APPROPRIATE COMMUNITIES CONCERNING THE HEALTH RISKS ASSOCIATED WITH FEMALE GENITAL MUTILATION.

25-30-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

- (1) "CHILD" MEANS A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE.
- (2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.
- (3) "FEMALE GENITAL MUTILATION" MEANS THE EXCISION OR INFIBULATION, IN WHOLE OR IN PART, OF THE CLITORIS, VULVA, LABIA MAJORA, OR LABIA MINORA OF A FEMALE CHILD.

25-30-103. Female genital mutilation - education and outreach activities - female genital mutilation fund. (1) ON OR BEFORE JULY 1, 1999, THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL, SUBJECT TO AVAILABLE MONEYS FROM GRANTS, GIFTS, OR DONATIONS RECEIVED PURSUANT TO SUBSECTION (2) OF THIS SECTION:

- (a) CARRY OUT APPROPRIATE AND CULTURALLY SENSITIVE EDUCATION, PREVENTION, AND OUTREACH ACTIVITIES CONCERNING FEMALE GENITAL MUTILATION TO INFORM THE APPROPRIATE COMMUNITIES ABOUT THE HEALTH RISKS ASSOCIATED WITH AND THE EMOTIONAL AND PSYCHOLOGICAL TRAUMA INFLICTED BY THAT PRACTICE;
- (b) EDUCATE THE MEDICAL COMMUNITY REGARDING RECOMMENDED STANDARDS OF PRACTICE INVOLVING THE RECOGNITION AND TREATMENT OF FEMALE GENITAL MUTILATION; AND
- (c) INFORM THE MEDICAL COMMUNITY AND OTHER APPROPRIATE COMMUNITIES OF THE CRIMINAL PENALTIES FOR CHILD ABUSE INVOLVING FEMALE GENITAL MUTILATION AS DESCRIBED IN SECTION 18-6-401, C.R.S.

(2) (a) THE EXECUTIVE DIRECTOR IS AUTHORIZED TO ACCEPT ON BEHALF OF THE STATE ANY FUNDS, GRANTS, GIFTS, OR DONATIONS FROM ANY PRIVATE OR PUBLIC SOURCE FOR THE PURPOSE OF IMPLEMENTING THIS ARTICLE; EXCEPT THAT NO GRANT OR DONATION SHALL BE ACCEPTED IF THE CONDITIONS ATTACHED TO THE GRANT OR DONATION REQUIRE THE EXPENDITURE THEREOF IN A MANNER CONTRARY TO LAW.

(b) ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GRANTS, GIFTS, OR DONATIONS FOR FEMALE GENITAL MUTILATION EDUCATIONAL AND OUTREACH ACTIVITIES SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FEMALE GENITAL MUTILATION FUND, WHICH FUND IS HEREBY CREATED. THE MONEYS IN THE FEMALE GENITAL MUTILATION FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS ARTICLE. THE EXECUTIVE DIRECTOR MAY EXPEND MONEYS APPROPRIATED TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THE FUND FOR PURPOSES OF IMPLEMENTING AND ADMINISTERING EDUCATIONAL AND OUTREACH PROGRAMS CONCERNING FEMALE GENITAL MUTILATION. ALL INVESTMENT EARNINGS DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS NOT APPROPRIATED SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR.

25-30-104. Repeal of article. EFFECTIVE JULY 1, 2004, THIS ARTICLE SHALL BE REPEALED.

SECTION 2. 18-6-401 (1), Colorado Revised Statutes, is amended to read:

18-6-401. Child abuse. (1) (a) A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation ~~which~~ THAT poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct ~~which~~ THAT results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries ~~which~~ THAT ultimately results in the death of a child or serious bodily injury to a child.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (b), A PERSON COMMITS CHILD ABUSE IF SUCH PERSON EXCISES OR INFIBULATES, IN WHOLE OR IN PART, THE LABIA MAJORA, LABIA MINORA, VULVA, OR CLITORIS OF A FEMALE CHILD. A PARENT, GUARDIAN, OR OTHER PERSON LEGALLY RESPONSIBLE FOR A FEMALE CHILD OR CHARGED WITH THE CARE OR CUSTODY OF A FEMALE CHILD COMMITS CHILD ABUSE IF HE OR SHE ALLOWS THE EXCISION OR INFIBULATION, IN WHOLE OR IN PART, OF SUCH CHILD'S LABIA MAJORA, LABIA MINORA, VULVA, OR CLITORIS.

(II) BELIEF THAT THE CONDUCT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) IS REQUIRED AS A MATTER OF CUSTOM, RITUAL, OR STANDARD PRACTICE OR CONSENT TO THE CONDUCT BY THE CHILD ON WHOM IT IS PERFORMED OR BY THE CHILD'S PARENT OR LEGAL GUARDIAN SHALL NOT BE AN AFFIRMATIVE DEFENSE TO A CHARGE OF CHILD ABUSE UNDER THIS PARAGRAPH (b).

(III) A SURGICAL PROCEDURE AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) IS NOT A CRIME IF THE PROCEDURE:

(A) IS NECESSARY TO PRESERVE THE HEALTH OF THE CHILD ON WHOM IT IS PERFORMED AND IS PERFORMED BY A PERSON LICENSED TO PRACTICE MEDICINE UNDER ARTICLE 36 OF TITLE 12, C.R.S.; OR

(B) IS PERFORMED ON A CHILD WHO IS IN LABOR OR WHO HAS JUST GIVEN BIRTH AND IS PERFORMED FOR MEDICAL PURPOSES CONNECTED WITH THAT LABOR OR BIRTH BY A PERSON LICENSED TO PRACTICE MEDICINE UNDER ARTICLE 36 OF TITLE 12, C.R.S.

(IV) IF THE DISTRICT ATTORNEY HAVING JURISDICTION OVER A CASE ARISING UNDER THIS PARAGRAPH (b) HAS A REASONABLE BELIEF THAT ANY PERSON ARRESTED OR CHARGED PURSUANT TO THIS PARAGRAPH (b) IS NOT A CITIZEN OR NATIONAL OF THE UNITED STATES, THE DISTRICT ATTORNEY SHALL REPORT SUCH INFORMATION TO THE IMMIGRATION AND NATURALIZATION SERVICE IN AN EXPEDITIOUS MANNER.

SECTION 3. Exception to the requirements of section 2-2-703, Colorado Revised Statutes. The general assembly hereby finds that the amendment to section 18-6-401, Colorado Revised Statutes, in this act would require a five-year appropriation pursuant to the requirements of section 2-2-703, Colorado Revised Statutes, for prison bed construction and operating costs. However, it is the intent of the general assembly that any prison bed construction and operating costs resulting

from the passage of this act be offset by prison bed savings and operating costs savings created by the amendment to section 42-2-206, Colorado Revised Statutes, in House Bill 99-1168, that are anticipated to be equal to or greater than the costs resulting from the passage of this act.

SECTION 4. Effective date - applicability. This act shall take effect upon passage and shall apply to offenses committed on or after said date; except that this act shall only take effect if section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and House Bill 99-1168 is enacted at the First Regular Session of the Sixty-second General Assembly and becomes law.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 1999