
Crimes (Female Genital Mutilation) Act 1996
Act No.

TABLE OF PROVISIONS

<i>Clause</i>		<i>Page</i>
1.	Purpose	1
2.	Commencement	1
3.	Insertion of new definitions	2
4.	Insertion of new sections 32 to 34A	3
32.	Offence to perform female genital mutilation	3
33.	Offence to take a person from the State with the intention of having prohibited female genital mutilation performed	4
34.	Consent not a defence to a charge under sections 32 or 33	4
34A.	Exceptions to offences under section 32	5
NOTES		6

A BILL

to amend the **Crimes Act 1958** to make provision with respect to female genital mutilation and for other purposes.

Crimes (Female Genital Mutilation) Act 1996

The Parliament of Victoria enacts as follows:

1. *Purpose*

The purpose of this Act is to amend the **Crimes Act 1958** to make provision with respect to the practice of female genital mutilation.

2. *Commencement*

This Act comes into operation on the day on which it receives the Royal Assent.

5

3. Insertion of new definitions

In section 15 of the **Crimes Act 1958** insert the following definitions—

' **"child"** means any person under the age of 18 years;

"female genital mutilation" means all or any of the following—

- (a) infibulation;
- (b) the excision or mutilation of the whole or a part of the clitoris;
- (c) the excision or mutilation of the whole or a part of the labia minora or labia majora;
- (d) any procedure to narrow or close the vaginal opening;
- (e) the sealing or suturing together of the labia minora or labia majora;
- (f) the removal of the clitoral hood;

"medical practitioner" means—

- (a) a registered medical practitioner; or
- (b) in relation to the performance of female genital mutilation outside Victoria, a person who, in the place in which the female genital mutilation took place, holds an authority to practise medicine which is similar to that of a registered medical practitioner;

"midwife" means—

- (a) a registered midwife; or
- (b) in relation to the performance of female genital mutilation outside Victoria, a person who, in the place in which the

female genital mutilation took place,
holds an authority to practise midwifery
which is similar to that of registered
midwife;

"prohibited female genital mutilation" means
female genital mutilation the performance of
which would be an offence under this Act if
carried out in the State;

"registered medical practitioner" has the same
meaning as in the **Medical Practice Act
1994**;

"registered midwife" means a person who is
registered under Part 2 of the **Nurses Act
1993** in Division 1 of the Register
established under that Act and who has
completed a course in midwifery approved
by the Nurses Board of Victoria, established
under that Act;'

4. Insertion of new sections 32 to 34A

After section 31 of the **Crimes Act 1958** insert—

"32. Offence to perform female genital mutilation

(1) A person must not perform female genital
mutilation on a child.

Penalty: Level 4 imprisonment.

(2) A person must not perform on a person other
than a child any type of female genital
mutilation referred to in paragraphs (a) to (e)
of the definition of female genital mutilation.

Penalty: Level 4 imprisonment.

33. Offence to take a person from the State with the intention of having prohibited female genital mutilation performed

5 (1) A person must not take another person from the State, or arrange for another person to be taken from the State, with the intention of having prohibited female genital mutilation performed on the other person.

Penalty: Level 4 imprisonment.

10 (2) In proceedings for an offence under sub-section (1), proof that—

(a) the defendant took the person, or arranged for the person to be taken from the State; and

15 (b) the person was subjected, while outside the State, to prohibited female genital mutilation—

20 is, in the absence of proof to the contrary, proof that the defendant took the person or arranged for the person to be taken from the State with the intention of having prohibited female genital mutilation performed on the person.

25 **34. Consent not a defence to a charge under sections 32 or 33**

30 It is not a defence to a charge brought under section 32 or 33 to prove that the person on whom the act which is the subject of the charge was performed, or the parents or guardian of that person, consented to the performance of that act.

34A. Exceptions to offences under section 32

- (1) It is not an offence against section 32 if the performance of the female genital mutilation is by a surgical operation which is—
- 5 (a) necessary for the health of the person on whom it is performed and which is performed by a medical practitioner; or
- 10 (b) is performed on a person in labour or who has just given birth, and for medical purposes or the relief of physical symptoms connected with that labour or birth, and which is performed by a medical practitioner or a midwife; or
- 15 (c) is a sexual reassignment procedure which is performed by a medical practitioner.
- (2) For the purposes of sub-section (1)(a), in determining whether an operation is
- 20 necessary for the health of a person, the only matters to be taken into account are those relevant to the medical welfare or the relief of physical symptoms of the person.
- (3) The burden of proving that the performance of the female genital mutilation did not occur
- 25 in any of the circumstances set out in sub-section (1) lies with the prosecution."
-
-

Crimes (Female Genital Mutilation) Act 1996

Act No.

Notes

NOTES

By Authority. Government Printer for the State of Victoria.