

Female Genital Mutilation (FGM) Statutes

In the United States and
the United Kingdom

U.S. Federal Statutes

- Female genital mutilation (18 USCS § 116 (2006))
 - Sentencing Guidelines:
 - Maximum sentence: a fine or imprisonment not more than 5 years, or both
- Information regarding female genital mutilation (8 USC §1374 (2005))
- Convictions:
 - To date, there have been no convictions for FGM under U.S. federal law or any U.S. state law.
 - A women in Georgia is currently being prosecuted for having her 10 month old daughter circumcised.

U.S. State FGM Statutes – 20/50

State	Sentencing Guidelines
CALIFORNIA	Imprisonment from one to six years
COLORADO	Imprisonment for a minimum of four years
DELAWARE	Class E Felony: up to five years imprisonment
FLORIDA	Felony of the first degree: Imprisonment not exceeding 30 years, fine not to exceed \$10,000
GEORGIA	Imprisonment for not less than five not more than 20 years – In March, 2010 a mother was charged for the female genital mutilation of her 10 month old baby (also charged with second degree cruelty to children)
ILLINOIS	Class X Felony: not less than six years or more than 30 years imprisonment

**Other states may use general child abuse or assault statutes to prosecute. These statutes may have higher sentencing guidelines than specific FGM statutes, so even in states that have FGM statutes prosecutors may charge assault in order to impose a higher sentence.

U.S. State FGM Statutes cont.

State	Sentencing Guidelines
MARYLAND	Imprisonment for up to five years and/or a fine of no more than \$5,000
MINNESOTA	Felony
MISSOURI	Class B Felony: Imprisonment of 5 to 15 years
NEVADA	Class B Felony: Imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000
NEW YORK	Class E Felony: Imprisonment up to 4 years
NORTHDAKOTA	Class C Felony: Imprisonment up to five years, a fine of \$5,000, or both
OKLAHOMA	Incarceration for a term of not less than 3 years nor more than life and a fine of not more than \$20,000

U.S. State FGM Statutes cont.

State	Sentencing Guidelines
OREGON	Class B felony: Imprisonment up to 10 years and/or a fine up to \$250,000
RHODE ISLAND	Imprisonment for not more than 20 years
TENNESSEE	Class D Felony: Imprisonment for not less than two years and no more than 12 years and a fine not to exceed \$5,000
TEXAS	A State Jail Felony: Imprisonment from 180 days to two years and possibly a fine of up to \$10,000
WEST VIRGINIA	Imprisoned in a state correctional facility for not less than 2 nor more than 10 years and fined not less than \$1,000 nor more than \$5,000
WISCONSIN	Class H Felony: A fine up to \$10,000 or six years in prison, or both

U.S. States with the Highest Number of Women at Risk for FGM

Total Number of Women at risk for FGM in the entire United States (227,887)

1. California (38,353)
2. New York (25,949)
3. New Jersey (18,584) **no FGM statute*
4. Virginia (17,980) **no FGM statute*
5. Maryland (16,264)
6. Minnesota (13,196)
7. Texas (13,100)
8. Georgia (9,531)
9. Washington (7,292) **no FGM statute*
10. Pennsylvania (6,508) **no FGM statute*

Estimates published by Brigham and Women's Hospital.
Research performed by the African Women's Center, based on the 2000 Census
(# women at risk)

A Closer Look at the New York State FGM Statute

- Female Genital Mutilation, in violation of Penal Law 130.85, is a class E Felony
 - A class E Felony is a *non-violent* felony.
- Sentencing Guidelines
 - Minimum sentence:
 - Interim Probation, for one year
 - Maximum sentence:
 - A determinate sentence of imprisonment between 1.5 and 4 years. A determinate sentence shall include an additional period of Post-Release Supervision of between 3 years and 10 years.
- NY FGM Arrests
 - There has only been one arrest for FGM since the statute was enacted in 1997.
 - The arrest was in Kings County in 1999 (Brooklyn, NY). This sole arrest resulted in an acquittal, all records have been sealed.

United Kingdom FGM Law: Female Genital Mutilation Act of 2003

- Articles 1-4
 - Article 1: Offense of female genital mutilation
 - Article 2: Offense of assisting a girl to mutilate her own genitalia
 - Article 3: Offense of assisting a non-UK person to mutilate overseas a girl's genitalia
 - Article 4: Extension of sections 1-3 to extra-territorial acts
- Article 5: Penalties for offences
 - Imprisonment for a term not exceeding 14 years or a fine (or both).
- Extraterritoriality Element:
 - FGM committed outside the territory of the UK is still prohibited.
 - The person must be a UK national or permanent resident.
- Prosecutions
 - There have been no prosecutions in the UK under the FGM law (as of 6/2009).

What Can We Do?

- Advocate for states with existing FGM statutes to increase awareness and sentencing guidelines (i.e. New York)
- Advocate for states that don't have FGM statutes to pass one
- Advocate to increase the sentencing guideline for the Federal FGM law
- Advocate to include an extraterritoriality element to our US Federal FGM law (like the UK)
 - Support Congressman Crowley (D-NY) and Congresswoman Mary Bono Mack (R-CA) proposed legislation to protect girls from FGM: *The Girls Protection Act* (H.R. 5137). This important legislation would make it a crime to transport a minor outside the U.S. for the purpose of FGM.
- Education: Raise awareness among school nurses in primary and middle school that according to the World Health Organization FGM is common in certain countries and that girls that have undergone it may face health repercussions.