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**THE COUNCIL OF THE CITY OF NEW YORK**

##### COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION

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**Committee on WOMEN AND GENDER EQUITY**

Hon. Darma V. Diaz, *Chair*

**September 9, 2021**

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| **Proposed Int. No. 1828-A:** | By Council Members Ampry-Samuel, Rosenthal, Cumbo, Chin, Koslowitz, Ayala, Louis, Kallos, Adams, Gjonaj and Rivera (by request of the Brooklyn Borough President) |
| **Title:** | A Local Law to amend the administrative code of the city of New York, in relation to establishing an advisory committee on female genital mutilation and cutting and making technical amendments in connection therewith |
| **Administrative Code:** | Renumbers several sections in Title 3 and adds a new section 3-184 |

**I. Introduction**

On September 9, 2021, the Committee on Women and Gender Equity, chaired by Council Member Darma V. Diaz, held a vote on Proposed Int. No. 1828-A, sponsored by Council Member Alicka Ampry-Samuel, related to establishing an advisory committee on female genital mutilation and cutting and making technical amendments in connection therewith, and the item was reported out of committee. This bill was originally heard at a hearing of this Committee, then-chaired by Council Member Helen K. Rosenthal, on December 12, 2018, at which the Committee heard testimony from the NYC Commission on Gender Equity (“CGE” or “Commission”) and the Mayor’s Office to End Domestic and Gender-Based Violence (ENDGBV), as well as activists, advocacy groups, experts in the field of gender equality, health care providers, legal services providers, service providers, and other interested stakeholders.

**II. Background**

Female genital cutting (FGC), also known as female genital mutilation or female circumcision,[[1]](#footnote-1) is defined by the World Health Organization (WHO) as “all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons.”[[2]](#footnote-2) FGC is a historical and cultural practice performed in over 30 countries, primarily in Africa, Asia and the Middle East.[[3]](#footnote-3) Some types of FGC are also reported to occur among certain ethnic groups in Central and South America, and Eastern Europe.[[4]](#footnote-4) FGC is practiced in households at all educational levels and social classes, and occurs among many religious groups[[5]](#footnote-5) for various sociocultural reasons, varying from one region and ethnic group to another.[[6]](#footnote-6) While FGC is condemned as a human rights violation by many international treaties and conventions,[[7]](#footnote-7) where it is practiced, FGC is often performed in line with social norms “to ensure that girls are socially accepted and marriageable, and to uphold their status and honor and that of the entire family.”[[8]](#footnote-8) Other historical reasons and purposes expressed for the practice, beyond safeguarding virginity before marriage or enhancing fertility, range from cleanliness and beauty to acting as a rite of passage into adulthood.[[9]](#footnote-9)

However, FGC has no known health benefits, and women and girls who have undergone FGC procedures are at great risk of suffering both short- and long-term health complications, including increased risks during childbirth, psychological trauma, and even death.[[10]](#footnote-10) Further, the painful and traumatic procedure is performed mainly on children and adolescents between the ages of infancy and 15 and without anesthetic.[[11]](#footnote-11) It is therefore also frequently performed without full, informed consent, with or without coercion.[[12]](#footnote-12) Accordingly, FGC has been widely recognized as a violation of basic human rights, including the principles of equality and non-discrimination on the basis of sex, the right to life when the procedure results in death, and the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, as well as the rights of the child.[[13]](#footnote-13)

 It is estimated that over 200 million women and girls worldwide who have experienced FGC.[[14]](#footnote-14) According to the United Nations Population Fund (UNFPA), if the current rate continues, a further 68 million girls could be subjected to FGC by 2030.[[15]](#footnote-15) Additionally, a rise in international migration has increased the number of women and girls who have undergone or are at at-risk of undergoing the practice in Australia, Canada, Europe, and the United States (U.S.).[[16]](#footnote-16) In the U.S. alone, the Centers for Disease Control (CDC) estimates that in 2012, approximately 513,000 women and girls, of whom 33 percent were younger than 18 years of age, were either victims of FGC or at risk of being subjected to it.[[17]](#footnote-17) Moreover, experts believe the practice has slowly been picking up speed across the country; based on available data, it is estimated that FGC cases have tripled since 1990.[[18]](#footnote-18)

In the U.S., the risk for FGC is especially high in areas with substantial ties to countries where FGC is legal or frequently practiced.[[19]](#footnote-19) The state of New York is considered a “hotbed” for the practice.[[20]](#footnote-20) According to the Population Reference Bureau (PRB), a nonprofit organization specializing in statistical collection and supply, approximately 10 percent of the at-risk women and girls in the U.S. (or 48,000) live in New York, which is second only to California.[[21]](#footnote-21) Additionally, the majority of women and girls at risk of FGC in this country reside in cities or suburbs of large metropolitan areas, and the New York-Newark-Jersey City Metro Area ranks first among all metropolitan areas in the country, with an estimated 65,893 women and girls at risk of FGC.[[22]](#footnote-22)

From a legislative perspective, while many governments in Africa and elsewhere have taken steps to eliminate the practice of **FGC** in their countries,[[23]](#footnote-23) the U.S. is an example of a country that has outlawed the practice of performing or assisting in the FGC procedure completely.[[24]](#footnote-24) In the U.S., federal law established that it is a crime to perform FGC on a girl younger than 18 or to take or attempt to take a girl out of the U.S. for FGC, though women and girls who have experienced FGC are not considered at fault.[[25]](#footnote-25) However, it should be noted that a November 20, 2018 District Court ruling, *U.S. v. Nagarwala*, found that Congress lacked authority under the Commerce Clause to adopt the 1996 federal law banning FGC and that the power to outlaw FGC belongs to individual states.[[26]](#footnote-26) As of the date of this hearing, the decision has not been appealed. [[27]](#footnote-27) Only 27 states have passed their own laws criminalizing the practice of FGC since 1994, and it is likely that states wanting to bring cases after the ruling will need to pass laws or use existing assault or abuse laws.[[28]](#footnote-28) Further, it should be noted that the state of New York bans the practice of FGC under the state Penal Law,[[29]](#footnote-29) while the state Public Health Law was amended in 2015 to address outreach and education about FGC.[[30]](#footnote-30)

**III. Female Genital Cutting (Mutilation/Circumcision)**

The WHO has distinguished four major types of FGC, the first three types being of increasing invasiveness, and the last a general category of unclassified genital injuries.[[31]](#footnote-31) These include:

1. **Type 1:** Often referred to as **clitoridectomy**, and which refers to the partial or total removal of the clitoris, and/or the prepuce, which is the fold of skin surrounding the clitoris;
2. **Type 2:** Often referred to as **excision**, and which refers to the partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora;
3. **Type 3:** Often referred to as **infibulation** and the most severe type, which refers to the narrowing of the vaginal orifice through the creation of a covering seal formed by cutting and repositioning the labia minora and/or labia majora, sometimes through stitching, with or without removal of the clitoris (clitoridectomy);[[32]](#footnote-32) and
	1. ***Deinfibulation*** refers to the practice of cutting open the sealed vaginal orifice, which is often necessary for improving health and well-being as well as to allow intercourse or to facilitate childbirth.[[33]](#footnote-33)
	2. ***Re-infibulation*** refers to the procedure to narrow the vaginal orifice after deinfibulation, also known as re-suturing.[[34]](#footnote-34)
4. **Type 4:** which includes all other harmful procedures to the female genitalia for non-medical purposes, such as cauterizing, incising, piercing, pricking and scraping the genital area.[[35]](#footnote-35)

 FGC has no health benefits, and there are numerous immediate, short-term and long-term health complications that stem from the practice. FGC interferes with normal body functions and can negatively affect several aspects of a girl’s or woman’s life, including her physical, mental and sexual health, as well as her relationship with her partner and other family members.[[36]](#footnote-36) Further, as an erogenous zone, the clitoris and surrounding genital tissues have a dense nerve supply and are particularly sensitive.[[37]](#footnote-37) As FGC is often performed without anesthetic, the practice is also known to cause severe and immediate pain.[[38]](#footnote-38) Other immediate and short-term physical health complications include:

* **Severe pain and injury to tissues**;[[39]](#footnote-39)
* **Hemorrhage** (severe hemorrhage can lead to ***anemia***), which is the most common and life-threatening complication of FGC;[[40]](#footnote-40)
* **Hemorrhage shock**, which can result in death within a relatively short time if the patient fails to receive adequate medical treatment;[[41]](#footnote-41)
* **Infection and septicemia**, which may occur when FGC is conducted in unhygienic surroundings and with dirty instruments, and if there is a lack of proper wound care following the procedure;[[42]](#footnote-42)
* **Genital tissue swelling**, which is typically caused by cutting and damaging genital tissues but may also be caused by an acute local infection;[[43]](#footnote-43) and
* **Acute urine retention**, which may be the result of injury, pain and a fear of urinating, or occlusion of the urethra during infibulation.[[44]](#footnote-44)

Women and girls who undergo FGC can also suffer health complications and conditions that surface months or even years following the procedure.[[45]](#footnote-45) Long-term gynecological and urogynecological health consequences stemming from FGC include:

* **Chronic vulvar pain**, which often manifests during sexual intercourse but may arise during daily activities, and has been linked to mental health disorders, including ***anxiety***, ***depression*** and ***post-traumatic stress disorder***;[[46]](#footnote-46)
* **Clitoral neuroma**, a benign tumor, resulting from the section or injury of a nerve, which can be asymptomatic or it may cause pain upon stimulation;[[47]](#footnote-47)
* **Reproductive tract infections (RTIs)**, including bacterial vaginosis, RTIs can be painful, may be accompanied by abnormal vaginal discharge, can be recurrent and, if left untreated, may become persistent and lead to pelvic inflammatory disease;[[48]](#footnote-48)
* **Menstrual problems** (such as dysmenorrhea, which is painful menstruation, and difficulty in passing menstrual blood), which may be a result of tight infibulation or severe scarring leading to narrowing of the vaginal orifice, not allowing normal menstrual flow;[[49]](#footnote-49)
* **Urinary tract infections (UTIs)** (often recurrent), mostly affecting women and girls who have undergone infibulation, it may occur due to obstruction and stasis of urine or due to injury of the urethral opening, affecting the normal flow of urine, causing it to stagnate and making is susceptible to bacterial growth;[[50]](#footnote-50)
* **Painful or difficult urination**, possibly caused by a UTI, or difficulty passing urine due to damage to or partial obstruction of the urethral opening so that “urine can only exit drop by drop and will frequently continue leaking after urination has stopped;”[[51]](#footnote-51) and
* **Epidermal inclusion cysts** and **keloids** in the genital area, which can cause discomfort during sexual intercourse and possible obstruction of the vaginal opening during childbirth.

Given the numerous health complications that women and girls may suffer as a result of having undergone FGC, there are also numerous sexual and reproductive health, family planning and psychological consequences of the procedure. With regard to sexual health, the removal of highly sensitive genital tissue, and the clitoris in particular, may affect sexual sensitivity and lead to sexual problems, including low sexual desire and pleasure, pain during sex, difficulty during penetration, little to no lubrication during intercourse, and reduced frequency or absence of orgasm.[[52]](#footnote-52) Furthermore, FGC is associated with an increased risk of human immunodeficiency virus (HIV).[[53]](#footnote-53)

FGC is also associated with a number of obstetric complications, including an increased risk of Caesarean section (C-section), post-partum hemorrhage, recourse to episiotomy, difficult labor, obstetric tears/lacerations, instrumental delivery, prolonged labor and an extended maternal hospital stay.[[54]](#footnote-54) Thought a direct association between FGC and obstetric fistula has not been established, the causal relationship between prolonged and obstructed labor and fistula indicates that both conditions could be linked in women who have undergone FGC.[[55]](#footnote-55) Perinatal risks of FGC include a higher incidence of infant resuscitation at delivery and intrapartum stillbirth and neonatal death.[[56]](#footnote-56)

Lastly, as aforementioned, FGC procedures can be a traumatic experience, adversely affecting the survivor’s mental health. They physical and sexual health complications that may arise from FGC can also have negative psychological consequences, as can any follow-up medical procedures.[[57]](#footnote-57) Undergoing FGC has been associated with a range of mental health problems, including:

* **Depression**;
* **Anxiety disorders**;
* **Post-traumatic stress disorder (PTSD)**; and
* **Somatic complaints**, which are physical pains that lack an organic cause.

The impact of such psychological complications has not been widely researched, and not every girl or woman who undergoes FGC suffers from related mental health issues.[[58]](#footnote-58) The mental health status can be affected by the individual’s sociodemographic characteristics, such as culture, socioeconomic background, ethnicity, education and age; whether the individual resides in her community of origin or is a migrant; the rate of acceptance of the practice in the community and society in which she resides; the attitudes of health care providers; and the legality of FGC where she resides.[[59]](#footnote-59)

**IV. Proposed Int. No 1828-A**

 Proposed Int. No. 1828-A would establish an advisory committee on female genital mutilation and cutting (FGM/C) within the Mayor’s Office to End Domestic and Gender-Based Violence (ENDGBV). The advisory committee, headed by the ENDGBV commissioner or their designee, would make recommendations to engage communities and agencies in decreasing, with the goal of eventually eliminating, the practice of female genital mutilation and cutting in the city, and would identify supportive community-based and culturally-responsive resources for people who have undergone female genital mutilation and cutting. According to the legislation, the mayor would appoint advisory committee members from various fields, including City government, healthcare, and non-profit organizations, among others, the advisory committee would be required to meet a minimum of two times per year for two years, after which time ENDGBV would assess the continued need for such advisory committee, and ENDGBV would also be required to report on the advisory committee’s activities in its annual report, or if the advisory committee were dissolved, continue to include a description of the office’s work in relation to FGM/C in its annual report.

Since introduction, this bill was amended to clarify that the committee would be advisory in nature, and that it would engage communities and focus on assisting with resources. The legislation was also amended to update the advisory committee’s duties and further specify who would be involved with the advisory committee, as well as to allow ENDGBV to evaluate whether the advisory committee is still necessary after two years, and to clarify that the required reporting will done through ENDGBV’s annual report rather than through a separate report.

Proposed Int. No. 1828-A

By Council Members Ampry-Samuel, Rosenthal, Cumbo, Chin, Koslowitz, Ayala, Louis, Kallos, Adams, Gjonaj and Rivera (by request of the Brooklyn Borough President)

..Title

A Local Law to amend the administrative code of the city of New York, in relation to establishing an advisory committee on female genital mutilation and cutting and making technical amendments in connection therewith

..Body

Be it enacted by the Council as follows:

Section 1. Subchapter 7 of chapter 1 of title 3 of the administrative code of the city of New York, as added by local law number 38 for the year 2019, is renumbered subchapter 8; sections 3-170, 3-171, 3-172 and 3-173 of such subchapter, as added by such local law number 38, are renumbered 3-180, 3-181, 3-182 and 3-183, respectively; and a new section 3-184 is added to such subchapter to read as follows:

§ 3-184 Advisory committee on female genital mutilation and cutting. a. Advisory committee established. There shall be an advisory committee on female genital mutilation and cutting established by the mayor or the mayor’s designee. The advisory committee shall make recommendations to engage communities and agencies in decreasing, with the goal of eventually eliminating, the practice of female genital mutilation and cutting in the city and identify supportive community-based and culturally-responsive resources for people who have undergone female genital mutilation and cutting.

b. Duties. The advisory committee shall make recommendations to address, without limitation:

1. Enhancing access to guidelines and trainings for educators, non-profit organizations, law enforcement and healthcare providers to assist in (i) the identification and protection of individuals at risk of undergoing female genital mutilation and cutting, and (ii) reporting instances of female genital mutilation and cutting;

2. Preventing and responding to the practice of female genital mutilation and cutting, including through culturally-sensitive public information about female genital mutilation and cutting;

3. Improving the collection of data concerning the practice of female genital mutilation and cutting among individuals and communities in the city, to the extent allowed by law;

4. Improving the coordination of systems and services for, as well as the response of agencies to, individuals and communities affected by the practice of female genital mutilation and cutting; and

5. Providing opportunities for input from, as well as soliciting and considering the recommendations of stakeholders including, but not limited to, community and faith-based groups, advocacy organizations, survivors of female genital mutilation and cutting and social service providers.

c. Membership. 1. To the extent practicable, the advisory committee shall include, but need not be limited to, the following members, provided that such members appointed by the mayor shall serve for a two-year term:

(a) The commissioner of the office or such commissioner’s designee, who shall serve as chair;

(b) The commissioner of children’s services or such commissioner’s designee;

(c) The commissioner of health and mental hygiene or such commissioner’s designee;

(d) The director of the office of immigrant affairs or such director’s designee;

(e) The police commissioner or such commissioner’s designee;

(f) The executive director of the commission on gender equity or such executive director’s designee;

(g) The chancellor of the department of education or such chancellor’s designee;

(h) Each borough president or each such borough president’s designee;

(i) The chief executive officer of the New York city health and hospitals corporation or such chief executive’s designee;

(j) Three medical professionals, including two or more licensed physicians, appointed by the mayor who have extensive experience working with patients who have undergone female genital mutilation and cutting and training healthcare providers on related issues;

(k) Three representatives appointed by the mayor from non-profit organizations that work with individuals who have undergone or are at risk of undergoing female genital mutilation and cutting;

(l) An expert in the field of public health data collection and analysis appointed by the mayor who has relevant research experience and expertise; and

(m) Three individuals appointed by the mayor who have undergone female genital mutilation and cutting.

2. The mayor shall make all appointments required by this section no later than 90 days after the effective date of the local law that added this section.

3. Appointed members of the advisory committee shall serve without compensation.

d. Meetings. The advisory committee shall meet at least two times per year.

e. Assessment. No later than two years following the first meeting of the advisory committee, and every two years thereafter, as applicable, the office shall assess the need for the advisory committee. If such committee is deemed unnecessary, the advisory committee shall be dissolved following the submission of the subsequent report required pursuant to this section.

f. Report. The commissioner of the office shall include each year in the annual report prepared and submitted in accordance with section 3-181 a description of the advisory committee’s activities and recommendations. After dissolution of the advisory committee, if applicable, the commissioner of the office shall continue to include in such annual report a description of the office’s work in relation to female genital mutilation and cutting.

§ 2. This local law takes effect 90 days after it becomes law.

SG / BM

LS #9294/11623

9/1/2021 6:00 pm

1. This paper utilizes the term “female genital cutting,” rather than “female genital mutilation” to give deference to the affected women and girls, often migrants, who live in the midst of a dominant discourse categorizing them as “mutilated” and sexually disfigured. While “female circumcision” is another common term, “female genital mutilation” is also referenced in recognition of the fact that it is the most commonly used term, including in terms of usage in legislation and treaties. Further, while this paper also utilizes the acronym FGC, FGM is also often shortened to FGM/C in recognition of updated and current language. *See* S. Johnsdotter, *The Impact of Migration on Attitudes to Female Genital Cutting and Experiences of Sexual Dysfunction Among Migrant Women with FGC*, 10(1) Current Sexual Health Reports 18-24 (2018), *available at* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5840240/; S. Fried, A. Mahmoud Warsame, V. Berggren, E. Isman & A. Johansson, *Outpatients’ Perspectives on Problems and Needs Related to Female Genital Mutilation/Cutting: a Qualitative Study from Somaliland*, 2013(1) Obst. and Gyn. Intl (2013), *available at* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3784275/; U.S. Department of Health and Human Services, Office on Women’s Health, *Female Genital Mutilation or Cutting* (last visited Dec. 7, 2018), *available at* https://www.womenshealth.gov/a-z-topics/female-genital-cutting; New York Department of Health, *Female Genital Mutilation/Female Circumcision Reference Card for Health Care Providers* (last visited Dec. 7, 2018), *available at* https://www.health.ny.gov/community/adults/women/female\_circumcision/providers.htm (explaining why it is “more appropriate” to use FGC/FC than FGM). [↑](#footnote-ref-1)
2. World Health Organization (hereinafter WHO), *Female Genital Mutilation: Key Facts* (Jan. 31, 2018), *available at* http://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation. [↑](#footnote-ref-2)
3. The United Nations Children Fund reports that FGC is found in countries beyond those listed in many guides and the 29 that the United Nations covers, and the total worldwide number is unknown. United Nations Children’s Fund (hereinafter UNICEF), *Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change* (2013), *available at* https://data.unicef.org/resources/female-genital-mutilationcutting-statistical-overview-exploration-dynamics-change/; WHO, *Supra* note 2; *See* Owolabi Bjälkander, Donald S. Grant, Vanja Berggren, Heli Bathija & Lars Almroth, *Female Genital Mutilation in Sierra Leone: Forms, Reliability of Reported Status, and Accuracy of Related Demographic and Health Survey Questions*, 2013(1) Obstetrics and Gyn Intl 1–14 (2013), *available at* https://www.hindawi.com/journals/ogi/2013/680926/. [↑](#footnote-ref-3)
4. WHO, *Supra* note 2. [↑](#footnote-ref-4)
5. Population Reference Bureau (hereinafter PRB), *Female Genital Mutilation/Cutting: Data and Trends Update 2014 – Infographic* (2014), *available at* https://www.prb.org/infographic-fgm/. [↑](#footnote-ref-5)
6. WHO, *Care of Girls & Women Living with Female Genital Mutilation: A Clinical Handbook* (2018), 16-7, *available at* http://apps.who.int/iris/bitstream/handle/10665/272429/9789241513913-eng.pdf?ua=1. [↑](#footnote-ref-6)
7. *See, e.g.,* Human Rights Watch, They took Me and Told Me Nothing: Female Genital Mutilation in Iraqi Kurdistan 1, 8 (2010), available at https://www.lawschool.cornell.edu/womenandjustice/upload/They-Took-Me-and-Told-Me-Nothing.pdf (describing several international treaties, including a Convention of the Elimination of All Forms of Discrimination, or CEDAW, Committee decision in 1990 calling on all states to eradicate FGC). [↑](#footnote-ref-7)
8. UNICEF, *Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change* (2013), *available at* https://data.unicef.org/resources/female-genital-mutilationcutting-statistical-overview-exploration-dynamics-change/; WHO, *Supra* note 2. [↑](#footnote-ref-8)
9. WHO, *Supra* note 6. [↑](#footnote-ref-9)
10. WHO, *Supra* note 6. [↑](#footnote-ref-10)
11. B.D. Williams-Breault, *Eradicating Female Genital Mutilation/Cutting: Human Rights-Based Approaches of Legislation, Education, and Community Empowerment*, Health and Human Rights Journal (Aug. 2018), *available at* https://www.hhrjournal.org/2018/08/eradicating-female-genital-mutilation-cutting-human-rights-based-approaches-of-legislation-education-and-community-empowerment/#\_edn49; Equality Now, *End FGM* (last visited Dec. 7, 2018), *available at* https://www.equalitynow.org/end\_fgm?locale=en. [↑](#footnote-ref-11)
12. B.D. Williams-Breault, *Supra* note 11. [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)
14. The United Nations Population Fund (hereinafter UNFPA), *Female Genital Mutilation (FGM) - Frequently Asked Questions* (Feb. 2018), *available at* https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions. [↑](#footnote-ref-14)
15. UNFPA, *UNFPA-UNICEF Joint Programme to Eliminate Female Genital Mutilation* (Feb. 6, 2018), *available at* https://www.unfpa.org/unfpa-unicef-joint-programme-eliminate-female-genital-mutilation. [↑](#footnote-ref-15)
16. WHO, *Supra* note 6. [↑](#footnote-ref-16)
17. H. Goldberg, P. Stupp, E. Okoroh, G. Besera, D. Goodman & I. Danel, *Female Genital Mutilation/Cutting in the United States: Updated Estimates of Women and Girls at Risk, 2012*, Public Health Reports, Vol. 131, (Mar.-Apr. 2016), 4, *available at* https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Special%20Situations/fgmutilation.pdf; PRB, *Summary of PRB Methods to Produce Estimates of Women and Girls Potentially at Risk of FGM/C in the United States* (last visited Dec. 7, 2018), *available at* https://assets.prb.org/pdf15/prb-unitedstates-fgmc-methodology.pdf. [↑](#footnote-ref-17)
18. H. Goldberg, P. Stupp, E. Okoroh, G. Besera, D. Goodman & I. Danel, *Female Genital Mutilation/Cutting in the United States: Updated Estimates of Women and Girls at Risk, 2012*, Public Health Reports, Vol. 131, (Mar.-Apr. 2016), 1, *available at* https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Special%20Situations/fgmutilation.pdf. [↑](#footnote-ref-18)
19. Samantha Allen, *New York Cracks Down on Female Genital Mutilation*, The Daily Beast (Dec. 2, 2015), *available at* https://www.thedailybeast.com/new-york-cracks-down-on-female-genital-mutilation?ref=scroll. [↑](#footnote-ref-19)
20. *Id.* [↑](#footnote-ref-20)
21. PRB, *Supra* note 17. [↑](#footnote-ref-21)
22. When considering New Jersey, 13 percent of all women and girls at risk of FGC live in the NYC metropolitan area. *Id.*; Samantha Allen, *Supra* note 19. [↑](#footnote-ref-22)
23. Samantha Allen, *Supra* note 19.; Nina Strochlic, *The U.S. Female Genital Mutilation Crisis,* The Daily Beast (Dec. 2, 2015), *available at* https://www.thedailybeast.com/new-york-cracks-down-on-female-genital-mutilation?ref=scroll; Elise B. Johansen, Mai Ziyada, Bettina Shell-Duncan, Adriana Marcusàn Kaplan, and Els Leye, *Health Sector Involvement in the Management of Female Genital Mutilation/Cutting in 30 Countries*, 240(18) BMC Health Serv. Res. (2018), *available at* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5883890/. [↑](#footnote-ref-23)
24. Pub. L. 104-208, § 645, 110 Stat. 3009-546 (1996); UNFPA, *Supra* note 14; The Center for Reproductive Justice, *Female Genital Mutilation (FGM): Legal Prohibitions Worldwide* (Dec. 11, 2008), *available at* https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Fact%20Sheet%20FGM%2002-2009.pdf; Khama Rogo, Tshiya Subayi, Nahid Toubia & Eiman Hussein Sharief, *Female Genital Cutting, Women’s Health, and Development: The Role of the World Bank*, The World Bank 1, 15 (Jul. 2007), *available at* http://documents.worldbank.org/curated/en/743811468194329407/pdf/558320PUB0Wome1C0Disclosed071221101.pdf; The Center for Reproductive Rights, *Briefing Paper: Legislation on Female Genital Mutilation in the United States* (2004), *available at* https://www.reproductiverights.org/sites/default/files/documents/pub\_bp\_fgmlawsusa.pdf. [↑](#footnote-ref-24)
25. FGC has been illegal in the U.S. since 1996 and vacation cutting was criminalized by the 2013 passage of the Transport for Female Genital Mutilation Act. The 1996 provision criminalizing the practice was enacted by Congress as part of the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, or Pub. L. 104-208, § 645, 110 Stat. 3009-546 (1996). The statute amends chapter 7, entitled “Assault,” of title 18 of the U.S. Code by adding a new section 116. (*See* 18 U.S.C.A. § 116 (Supp. 1997)). With two exceptions, this legislation provides that “whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.” (18 U.S.C.A. at § 116(a)), although the statute exempts a surgical operation if such operation is “necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner.” (18 U.S.C.A. at § 116(b)(1)). The statute states that “no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.” (18 U.S.C.A. at 116(c)). The statute also exempts an operation if it is “performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed . . . as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.”(Pub. L. No. 104-208, § 645(c), 110 Stat. 3009- 546, 709 (1996)). The law went into effect in 2007. [↑](#footnote-ref-25)
26. *See* U.S. v. Nagarwala, U.S. District Court, Eastern District of Michigan, No. 17-20274 (2018), *available at* https://content-static.detroitnews.com/pdf/2018/US-v-Nagarwala-dismissal-order-11-20-18.pdf. [↑](#footnote-ref-26)
27. As of December 11, 2018, it is unclear whether the “Michigan case” decision would be appealed, and the state of New York continues to reference to the federal legislation in providing guidance on protections. *See* New York State Department of Health, *Supra* note 1; Jonathan Stempel, *Judge voids U.S. Female Genital Mutilation Law,* Reuters (Nov. 20, 2018), *available at* https://www.reuters.com/article/us-usa-crime-genital-mutilation/judge-voids-u-s-female-genital-mutilation-law-idUSKCN1NP2OR; Pam Belluck, *Federal Ban on Female Genital Mutilation Ruled Unconstitutional by Judge*, New York Times (Nov. 21, 2018), *available* athttps://www.nytimes.com/2018/11/21/health/fgm-female-genital-mutilation-law.html; Stephen Loiaconi, *Michigan Case Presents First Test of Federal Law Against Female Genital Mutilation*, WJLA (last visited Dec. 7, 2018), *available at* https://wjla.com/news/nation-world/michigan-case-presents-first-test-of-federal-law-against-female-genital-mutilation. [↑](#footnote-ref-27)
28. Samantha Allen, *Supra* note 19. [↑](#footnote-ref-28)
29. The New York State Prohibition of Female Genital Mutilation Act of 1997, added section 130.85 to the Penal Code. (*see* N.Y. Adv. Legis. Serv. 618, § 2 (1997)). The Act states that a person is guilty of FGC when he or she “knowingly circumcises, excises, or infibulates, the whole or any part of the labia majora, labia minora, or clitoris of another person who has not reached eighteen years of age.” In addition, “a parent, guardian, or other person legally responsible and charged with the care and custody of a child less than eighteen years old, [who] knowingly consents to the circumcision, excision or infibulation of whole or part of such child’s labia minora or labia majora or clitoris” is also guilty of FGC. ( N.Y. Penal Law at § 130.85 (1)(b)). FGV is classified as a class E felony, which is punishable by up to four years’ imprisonment. (N.Y. Penal Law at § 130.85 (3)). The law exempts from this prohibition circumcision, excision, or infibulation that is “necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner.” FGC is also permissible when it is “performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.” However, the law does not permit any account to be taken of “the effect on the person on whom such a procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual.” *See* N.Y. Penal Law § 130.85 (1997). [↑](#footnote-ref-29)
30. N.Y. Pub. Health Law §207(1)(k); The Office of Assemblywoman Amy Paulin, *Amy Paulin’s Legislation Regarding Female Genital Mutilation Approved by Assembly and Senate* (Jun. 17, 2015), *available at* https://nyassembly.gov/mem/Amy-Paulin/story/64339/; New York State Assembly, *A00134 Memo* (last visited Dec. 7, 2018), *available at* https://assembly.state.ny.us/leg/?default\_fld=&bn=A134&term=2015&Memo=Y; Samantha Allen, *Supra* note 19. [↑](#footnote-ref-30)
31. WHO, *Supra* note 2. [↑](#footnote-ref-31)
32. B.D. Williams-Breault, *Supra* note 11. [↑](#footnote-ref-32)
33. WHO, *Supra* note 2. [↑](#footnote-ref-33)
34. B.D. Williams-Breault, *Supra* note 11. [↑](#footnote-ref-34)
35. WHO, *Supra note 2.* [↑](#footnote-ref-35)
36. WHO, *Supra* note 6. [↑](#footnote-ref-36)
37. *Id.* at 94. [↑](#footnote-ref-37)
38. *Id.* [↑](#footnote-ref-38)
39. *Id.* at 87. [↑](#footnote-ref-39)
40. *Id.* at 99. [↑](#footnote-ref-40)
41. *Id.* at100. [↑](#footnote-ref-41)
42. *Id.* at 102. [↑](#footnote-ref-42)
43. *Id.* at 104. [↑](#footnote-ref-43)
44. *Id.* [↑](#footnote-ref-44)
45. *Id.* at 114. [↑](#footnote-ref-45)
46. *Id.* at 122. [↑](#footnote-ref-46)
47. *Id.* at 124. [↑](#footnote-ref-47)
48. *Id.* at 126. [↑](#footnote-ref-48)
49. *Id.* at 130. [↑](#footnote-ref-49)
50. *Id.* at 132. [↑](#footnote-ref-50)
51. *Id.* at 136. [↑](#footnote-ref-51)
52. WHO, *Sexual and Reproductive Health: Health Risks of Female Genital Mutilation (FGM)* (last visited Dec. 7, 2018), *available at* https://www.who.int/reproductivehealth/topics/fgm/health\_consequences\_fgm/en/. [↑](#footnote-ref-52)
53. *Id.* [↑](#footnote-ref-53)
54. *Id.* [↑](#footnote-ref-54)
55. *Id.* [↑](#footnote-ref-55)
56. *Id.* [↑](#footnote-ref-56)
57. *Supra* note 6 at239. [↑](#footnote-ref-57)
58. *Id.* [↑](#footnote-ref-58)
59. *Id.* at 240. [↑](#footnote-ref-59)