Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §214 is enacted to read:

§214. Female genital mutilation of a minor; removal from State; consent

1. As used in this section, "female genital mutilation" means the circumcision, excision, mutilation or infibulation, in whole or in part, of the labia majora, labia minora or clitoris of a female individual.

"Female genital mutilation" does not include a medical procedure that is performed by a person licensed pursuant to Title 32, chapter 36 or 48, a midwife licensed pursuant to Title 32, chapter 31 or chapter 113‑B, subchapter 4 or a person in an approved training program under the direct supervision and control of a person licensed pursuant to Title 32, chapter 36 or 48 or a midwife licensed pursuant to Title 32, chapter 31 or chapter 113‑B, subchapter 4, if the medical procedure is:

A. Necessary to the health of the individual on whom the medical procedure is performed; or

B. Performed on an individual who is in labor or who has just given birth for medical purposes connected with that labor or birth.

In determining whether a medical procedure is necessary to the health of the individual, no account may be taken of the belief on the part of any individual that the medical procedure is required as a matter of custom, religion or ritual.

2. Notwithstanding subsection 1, until January 1, 2020, "female genital mutilation" does not include a medical procedure that is necessary to the health of the individual on whom the medical procedure is performed or that is performed on an individual who is in labor or who has just given birth for medical purposes connected with that labor or birth if the individual performing the medical procedure:

A. Holds a current and valid national certification as a certified professional midwife from the national registry of midwives;

B. Is certified as a certified midwife by the national midwifery certification board; or

C. Is in an approved training program under the direct supervision and control of an individual described under paragraph A or B.

This subsection is repealed January 1, 2020.

3. A person is guilty of female genital mutilation of a minor if that person knowingly performs female genital mutilation on a female individual under 18 years of age. Violation of this subsection is a Class A crime.

4. A person is guilty of removing an individual for female genital mutilation of a minor if that person knowingly removes or causes or permits the removal of a female individual under 18 years of age from this State for the purpose of performing female genital mutilation or for the purpose of allowing another person to perform female genital mutilation on the female individual under 18 years of age. Violation of this subsection is a Class A crime.

5. A person is guilty of consenting to female genital mutilation of a minor if that person knowingly consents to or permits the female genital mutilation of a female individual under 18 years of age. Violation of this subsection is a Class A crime.

6. Notwithstanding section 106, subsection 7, it is not a defense to prosecution under this section that the female individual who is under 18 years of age or the parent, guardian or person who has immediate custody of the female individual under 18 years of age:

A. Consented to the female genital mutilation; or

B. Believed that the female genital mutilation was desirable or required as part of custom, religion or ritual.

7. A person who is a mandated reporter pursuant to Title 22, section 4011‑A is guilty of failing to report female genital mutilation if that person knowingly fails to report any instance of female genital mutilation of a female individual under 18 years of age to the Department of Health and Human Services. Violation of this subsection is a Class E crime.

8. A person who is a mandated reporter pursuant to Title 22, section 4011‑A is guilty of failing to report circumstances that present a high likelihood of imminent harm through female genital mutilation if that person knowingly fails to report circumstances that present a high likelihood of imminent harm through female genital mutilation of a female individual under 18 years of age. Violation of this subsection is a Class E crime.

9. Notwithstanding section 8, a prosecution for a violation of this section may be brought no later than the victim's 25th birthday.

10. To the extent existing resources are available, the Department of Health and Human Services shall develop and institute a community outreach program to address female genital mutilation. To the extent existing resources are available, the program may include the following components:

A. Community-based education and outreach services regarding female genital mutilation;

B. Outreach and provision of support services to victims of female genital mutilation in the State;

C. A training program relating to female genital mutilation of a minor for persons who are mandated reporters pursuant to Title 22, section 4011‑A that includes the provision of information regarding the types of female genital cosmetic surgery that are considered female genital mutilation of a minor when not necessary to the health of the minor;

D. Distribution of educational materials regarding the health risks of and emotional trauma inflicted by and related to the practice of female genital mutilation; and

E. Distribution of educational materials relating to the federal and state prohibitions on and penalties for performing female genital mutilation of a minor or allowing a minor under a person's custody to be subject to female genital mutilation.

SUMMARY

This initiated bill defines "female genital mutilation" as the circumcision, excision, mutilation or infibulation, in whole or in part, of the labia majora, labia minora or clitoris of a female individual but excludes from the definition medical procedures that are necessary to the health of the female individual or performed for medical purposes on a female individual in labor or who has just given birth, as long as the medical procedure was performed by a person licensed in the State by the Board of Licensure in Medicine or the Board of Osteopathic Licensure or by a licensed midwife or a person in an approved training program under the direct supervision and control of a physician or midwife licensed in this State.

Because certified midwives and certified professional midwives are not required to be licensed in the State until January 1, 2020, the initiated bill clarifies that necessary medical procedures performed by a certified midwife or certified professional midwife, or by an individual in an approved training program under the direct supervision and control of a certified midwife or certified professional midwife, are also excluded from the definition of "female genital mutilation."

The initiated bill makes it a Class A crime to knowingly perform female genital mutilation on a female individual under 18 years of age, to knowingly remove a female individual under 18 years of age from this State for purposes of female genital mutilation or to knowingly consent to or permit female genital mutilation of a female individual under 18 years of age. Under the provisions of the initiated bill, it is not a defense that the victim or the parent, guardian or person who has immediate custody of the victim consented to the procedure or believed that it was desirable or required as part of custom, religion or ritual.

The initiated bill extends the statute of limitations for female genital mutilation offenses to the 25th birthday of a victim of female genital mutilation of a minor.

The initiated bill makes it a Class E crime for mandated reporters to knowingly fail to report to the Department of Health and Human Services instances of female genital mutilation of a minor and for mandated reporters to knowingly fail to report circumstances in which a female individual under 18 years of age is in high likelihood of imminent harm through female genital mutilation.

The initiated bill also requires the Department of Health and Human Services, to the extent existing resources are available, to develop and institute a community outreach program regarding female genital mutilation that provides support services, training and educational materials.