

Legislative Analysis



PERMANENT REVOCATION OF HEALTH LICENSE FOR FEMALE GENITAL MUTILATION CONVICTION

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<http://www.house.mi.gov/hfa>

Senate Bill 410 (reported from House Committee as S-1)
Sponsor: Sen. Patrick Colbeck

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4639 (passed by the Senate as S-2)
Sponsor: Rep. Klint Kesto

House Committee: Law and Justice
Senate Committee: Judiciary
Complete to 6-20-17

BRIEF SUMMARY: Taken together, Senate Bill 410 and House Bill 4639 would amend the disciplinary section of the Public Health Code to require the permanent revocation of the health care license or registration of a person convicted of offenses related to female genital mutilation (FGM) being created in the Michigan Penal Code. A certified copy of the court record would be conclusive evidence of the conviction.

FISCAL IMPACT: The bill would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs.

THE APPARENT PROBLEM:

According to the Centers for Disease Control and Prevention, an estimated 513,000 women and girls in the United States have experienced, or are at risk of experiencing, Female Genital Mutilation (FGM). A representative from the AHA Foundation estimates that of those 513,000 women and girls, 10,493 are living in Michigan. Two Detroit-area doctors, and a third person, have recently been charged under the federal FGM statute, related to the performing of FGM on two girls from Minnesota at a medical clinic in Livonia.

Even though a federal framework already exists, sponsors of the bills believe that the federal laws are not severe enough to account for the lifetime of suffering victims of FGM experience. Additionally, the sparse federal laws addressing FGM do not hold everyone involved in the procedure accountable for their actions. For instance, according to The Washington Post, the parents of the girls in the above-mentioned case lost custody of their children for only 72 hours, prompting Minnesota to draft their own state legislation to make up for the inadequacy of the federal laws.¹ Michigan legislators have crafted a comprehensive package of bills to address various aspects of FGM in the hopes of

¹ Abigail Hauslohner, The Washington Post, *First federal case under female genital mutilation ban spurs efforts for harsher penalties*, May 29, 2017, https://www.washingtonpost.com/national/first-federal-case-under-female-genital-mutilation-ban-spurs-efforts-to-stiffen-penalties/2017/05/25/5b29d0de-39a9-11e7-a058-dbb23c75d82_story.html?utm_term=.33f4e3af7903.

eradicating it from the state.² House Bill 4639 and Senate Bill 410 are included in the proposals.

THE CONTENT OF THE BILL:

Taken together, Senate Bill 410 and House Bill 4639 would amend the disciplinary section of the Public Health Code to require the permanent revocation of the health care license or registration of a person convicted of offenses related to female genital mutilation (FGM) being created in the Michigan Penal Code. A certified copy of the court record would be conclusive evidence of the conviction.

The proposed Penal Code amendments specifically would (1) prohibit a person from knowingly circumcising, excising, or infibulating the whole or any part of the labia majora or labia minora or clitoris of a person less than 18 years of age—the definition of FGM—and (2) knowingly facilitating such conduct or knowingly transporting a person from this state for the purpose of such conduct. These amendments are found in House Bills 4636 and 4637 and Senate Bills 337 and 368.

Senate Bill 410 would amend the sanctions list under Section 16226 of the Public Health Code (PHC) to note that permanent revocation would be the penalty for the conduct described in **House Bill 4639**. That bill would amend Section 16221 of the Public Health Code to cite the Michigan Penal Code provisions related to FGM and specify that a certified copy of the court record would be conclusive evidence of the conviction under the Penal Code.

The two bills are tie-barred to each other and to Senate Bills 337 and 368, which would amend the Penal Code.

HOUSE COMMITTEE ACTION:

No amendments or substitutes were submitted or adopted.

BACKGROUND INFORMATION:

Under provisions of the PHC, a licensed or registered healthcare professional (or applicant) can be subject to administrative sanctions for engaging in certain conduct or prohibited acts, as specified in the code. For example, negligence or failure to exercise due care, incompetence, practice outside the scope of a license, or conviction of certain criminal offenses can result in sanctions levied against the person's license or registration. These sanctions include denial, suspension, or revocation of the license or registration; reprimand; fines; restitution; and community service.

² An analysis of the entire FGM Bill Package can be found here: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-4636-50172F00.pdf>

Currently, the following healthcare professions are licensed or registered under Article 15 of the Public Health Code: acupuncturists, chiropractors, dentists, dental assistants, dental hygienists, audiologists, marriage and family therapists, physicians (M.D.s and D.O.s), nurses, nursing home administrators, optometrists, speech-language pathologists, pharmacists, physical therapists and physical therapy assistants, physician's assistants, athletic trainers, massage therapists, podiatrists, counselors, psychologists, occupational therapists and occupational therapy assistants, dietitians and nutritionists, sanitarians, social workers and social service technicians, respiratory therapists, and veterinarians and veterinarian technicians.

The Department of Community Health has authority to investigate activities of licensed or registered healthcare professionals and applicants for licensure or registration. This includes conducting hearings, administering oaths, and ordering relevant testimony to be given. The findings of the investigation are then reported to the appropriate disciplinary subcommittee. Disciplinary subcommittees are required to impose one or more of the sanctions that apply to a specific violation.

POSITIONS:

A representative from the Michigan Catholic Conference indicated support for the bill.
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.