

# Why we hesitate to protect girls from FGM in the United States



aha foundation

## Executive summary by Ayaan Hirsi Ali

Updated: June 2019



Photo: mikemyersphoto.com

In 2017, news broke that an American doctor was charged in Detroit federal criminal court for performing genital mutilation on young girls. Since then, the case has uncovered a web of secrecy and abuse with six additional defendants charged and up to 100 girls potentially victimized. Despite these revelations, in November 2018 the judge presiding over the case ruled that the federal law criminalizing FGM was unconstitutional.

The Centers for Disease Control and Prevention (CDC) estimates that there are 513,000 women and girls in the U.S. who have been or are at risk of being held down and their genitals cut, typically without anesthetic. This is done for misguided cultural reasons to 'cleanse' them of their sexual appetite.

The Michigan FGM trial remains the only case of FGM that has been brought to court under the federal statute in place since 1996. Similarly, in the United Kingdom, a law criminalizing FGM has been in place since 1985 and multiple cases have made it to court, but only one successful conviction has taken place.

Such a poor record of securing justice for girls who suffer this human rights abuse must not continue. For this reason, the AHA Foundation, in collaboration with UK think tank

Quilliam, has prepared a report into the legislative loopholes and justifications that permit FGM to continue.

Our goal is to end FGM and we recommend the following measures be implemented in the United States:

- Criminalize FGM at the state level across the country
- Train frontline services to identify and report FGM, and provide resources to those at risk
- Enforce mandatory reporting of FGM in health care, teaching, police and social services as with other types of child abuse
- Fund education and outreach for at-risk communities
- Incorporate education about the harms of FGM in mandatory school sex education for girls and boys
- Let go of the misguided political correctness around condemning cultural and religious practices which have provided cover for perpetrators to inflict harms on women and girls.

**Ayaan Hirsi Ali**  
Founder  
AHA Foundation

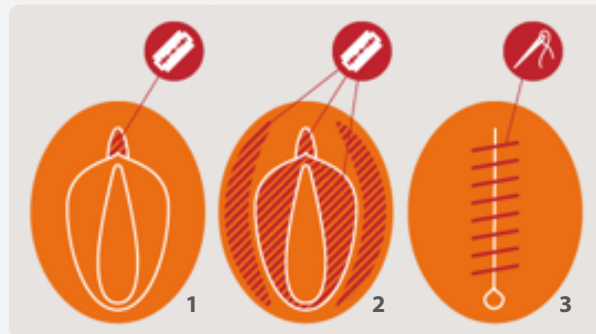


**Acknowledgements:** We sincerely thank Quilliam for their collaboration on this report. Quilliam, founded by Maajid Nawaz, is the world's first counter-extremism think tank and advocacy organization. Quilliam's inputs into this report have greatly enriched the content, in particular the section concerned with the failure to prosecute FGM in the UK.

Female genital mutilation (FGM) is a form of gender-based violence recognized as a violation of women's and girls' fundamental human rights.

There are four major types of FGM:

- 1 **Clitoridectomy:** Involves the removal of the clitoris and or clitoral hood, an otherwise normally functioning body part that is sliced off and thrown away.
- 2 **Intermediate infibulation:** As much of the clitoris as possible is removed and the labia minora cut, often times the labia majora as well to narrow the vaginal opening.
- 3 **Vaginal fusing or total infibulation:** Total infibulation includes the clitoris and the inner labia being removed and the outer labia cut or scraped, then sewn together. Vaginal fusing is the most severe form of FGM which includes all aspects of total infibulation, as well as the inner walls of the vagina scratched to cause bleeding and sewing again. The girl's feet are then tied together in an effort to fuse the two sides of the vagina with scar tissue to close it up.
- 4 **The 'nick':** Involves pushing a girl's legs apart and using a needle to prick her clitoris, typically to draw blood. This can sometimes include cutting, scraping or cauterizing the girls genitals.



FGM can only harm girls, there is no health benefit

The World Health Organization states that FGM has no health benefits and can cause a number of health problems. Immediately following the procedure, girls are at risk of severe pain, shock, bleeding, infection and injury to nearby tissue. In the long term, girls and women who have suffered this procedure can suffer recurrent bladder and urinary tract infections, cysts, infertility, and complications during childbirth. In some cases it can even be lethal.

All forms of FGM, including the less invasive forms, such as nicking or pricking, can still result in intense, lifelong psychological trauma, as well as physical consequences like infection and damaged nerve endings.

There is global agreement that the only way to end FGM is to have zero tolerance of the practice, meaning that any and every type of FGM is a violation of girls' human rights.

FGM is illegal in the United States but it still takes place

FGM was made a federal crime in 1996, punishable by up to five years in prison, and was later expanded to address the issue of "vacation cutting" – taking American girls abroad to undergo FGM became a felony in the U.S. The district court judge presiding over the *Nagarwala* case ruled in 2018 that the federal law is unconstitutional. The judge's ruling that criminalizing FGM should be done at the state level highlights the need for individual states to take corrective measures by passing their own anti-FGM laws.

 **513,000** 

The approximate **NUMBER OF WOMEN AND GIRLS IN THE U.S. THAT HAVE EITHER SUFFERED THE PROCEDURE OR ARE AT RISK OF FGM**, according to the Centers for Disease Control, a number that approximately **DOUBLED BETWEEN 2000 AND 2014.**

# The first-ever federal prosecution for FGM in Michigan



In 2017, federal charges were brought against American-trained physician Dr. Jumana Nagarwala for performing FGM on little girls at a medical clinic in Livonia, Michigan.

In late 2018, Nagarwala's defense team successfully challenged the constitutionality of the federal anti-FGM law and key charges in the case were subsequently dismissed. The presiding judge asserted that the criminalization of FGM is the responsibility of the states, not the federal government. The Department of Justice declined to appeal the judge's decision, however, congressional leaders may still take action to affirm the constitutionality of the law.

The defense team in this case originally argued that the procedures performed by the doctors did not constitute FGM but were instead minor and ritualistic in nature. They argue that Dr. Nagarwala simply "removed membrane from the girls' genital area using a 'scraper'... the girls' parents then bury the membrane in the ground." However, one of the girls reported that "she could barely walk, and that she felt pain all the way down to her ankle."

**THIS ARGUMENT SUGGESTS** that a mild, or less invasive, approach to FGM should be permitted. Yet in all its forms, **FGM IS CARRIED OUT WITH THE AIM OF CONTROLLING FEMALE SEXUALITY**. It is designed to reduce a girl's libido and decrease the physical pleasure she could derive from sex. FGM in all its forms is a manifestation of the outdated, patriarchal norms continuing in the communities that practice it.

According to the WHO, FGM "reflects deep-rooted inequality between the sexes, and constitutes an extreme form of discrimination against women."

## Ritual Nicks vs. Zero Tolerance

Some misguided commentators suggest that a 'ritual nick' in a girl's clitoris would allow the customary nature of FGM to take place while reducing the harms associated with the practice. However, it is impossible to guarantee no physical harm will take place when doing a procedure on the tiny organ of a young girl.

Even in its most mild form, the 'nick' procedure involves a young girl being held down, often by her loved ones, her legs pulled apart and a needle poked into one of her most sensitive body parts.

In addition, the psychological consequences are unavoidable. The 'nick' symbolizes and communicates to little girls that their natural state is unclean and that pain must be inflicted on their genitals to make them acceptable to their communities.

FGM is the symptom of harmful cultural beliefs that girls and women must be sexually pure, modest and that their bodies exist to breed. Whether it's justified on grounds of religion, culture or family tradition, these beliefs are not compatible with liberal societies that profess to ensure the human rights of their citizens.

*// At age 11, I forcefully underwent female genital mutilation and 33 years later, I still suffer from PTSD. //*

— FA Cole,  
FGM Survivor and Activist



## The psychological consequences of a 'ritual nick' are not acceptable

Even minimally-invasive forms of FGM cause trauma and other damaging psychological impacts. Psychotherapist Joanna Vergoth specializes in working with FGM survivors. She says that "many women who have experienced FGM may suffer, not only from complicated medical consequences, but also from serious psychological distress and psycho-sexual difficulties."

Without drawing an absolute line to protect girls from all forms of female genital mutilation, it will be impossible to eliminate the practice.

## The only justifiable approach to FGM is one of zero tolerance

Tolerating medically unnecessary procedures on girls' genitalia creates an ethical slippery slope. It begs the question - how much pain, blood and cut clitoris is enough? And who decides?

Bartering with human rights will result in human rights violations. Permitting girls to be subjected to a mild form of FGM, or 'ritual nick', will make it easier for communities to continue the practice in all its forms.

It is important to respect different cultural backgrounds and religious beliefs. However, this tolerance must not continue at the point where violence, abuse, or oppression takes place.

## Criminalizing FGM is crucial to ending this human rights abuse

It may seem harsh to consider practitioners and parents who inflict FGM criminals. But, like other forms of child abuse, FGM should be prevented and prosecuted in the United States.

Even the threat of being prosecuted for inflicting FGM serves as a strong deterrent to practitioners and parents. The AHA Foundation has heard from families considering whether or not to cut their daughters, that the existence of state legislation is a useful excuse they can use to argue against family and community pressure to have their daughters cut.

Hand in hand with laws to criminalize the practice, education and advocacy are required to end FGM. Civil society organizations and frontline services such as police, teachers, social services and health care providers must work with at-risk communities to deter the practice. This requires explaining the harms associated with FGM as well as the fact that FGM is a cultural rather than religious practice.

**ZERO TOLERANCE OF FGM** is the only way to ensure the safety of girls,  
any other option opens the door for child abuse.

*// I was exposed to a horrible female genital mutilation experience, imposed by an unfair culture, and performed by an unskilled woman through inhumane and injurious practice. //*

— FGM Survivor, California

## Misguided backlash against FGM prevention and prosecution

Despite the unarguably harmful nature of FGM, some commentators and communities continue to push against criminalizing the practice. This backlash can be explained by the misconception that FGM is a religious practice.

In fact, FGM is not particular to any religious group, nor prescribed by any faith. It is actually a culturally-based practice, a harmful tradition passed on through families and communities that pre-dates all major religions. FGM has been co-opted by some religious sects, but there is no major religion that requires FGM.

## What can we learn from the UK's failure to effectively prosecute FGM?

Mandatory reporting through the United Kingdom's National Health Service (NHS) has revealed that there were 5,391 recorded incidents of FGM from 2016 through 2017. Despite having legislation in place since 1985, only recently has a perpetrator of FGM been brought to justice.

Multiple UK FGM cases have been brought to court, including two couples in early 2018 who were accused of having their daughters mutilated — both incidences failed to land a conviction. In February 2019, a woman from east London was the first person to be found guilty of FGM after she and her partner were accused of cutting their daughter in late 2017. Her partner was ultimately acquitted by the jury. The UK Commons Home Affairs Select Committee said the lack of convictions for FGM was a “national scandal”.

One explanation is a lack of appetite among police to enforce the law. In early 2018, the West Midlands police force stated that parents caught inflicting FGM on their children should not be prosecuted, and that the best course of action is to “educate parents.”

### Why UK prosecutions have failed:



Disempowered survivors who are too young or remain silent about their suffering



Lack of witnesses willing to speak out against their communities and the secrecy around FGM



Cultural hypersensitivity among authorities that fear hurting communities' feelings or religious sentiments

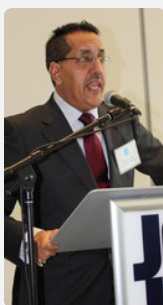


Lack of education about the harms of FGM versus misinformation about its supposed cultural benefits



Lack of forensic evidence and inadequate detection of FGM

## Former UK Chief Prosecutor on the importance of prosecuting gender-based violence



Nazir Afzal, former UK Chief Prosecutor, explains that the first successful prosecution for FGM is crucial as it will embolden authorities and victims to bring more cases to justice. “Once you’ve got a conviction and prosecution we get the ball rolling, and other victims will have courage to come forward and authorities are then emboldened to do more.”

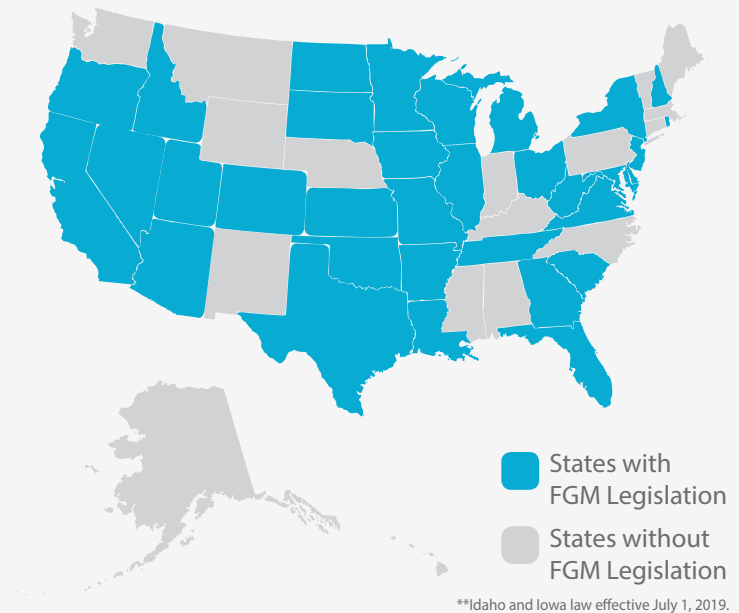
Afzal compares FGM to other forms of clandestine gender-based violence which he has prosecuted such as honor violence and child sexual exploitation ‘grooming gangs’. “The first honor-based violence prosecutions took place 12 years ago in the UK and now we’re prosecuting them routinely. This was also the case with the grooming gangs in 2011.” He recommends pushing forward with strong cases that will succeed in prosecuting FGM.

\*UK data last updated May 2019.






## Human rights abuses slipping through legislative cracks in the U.S.

Since FGM was outlawed nationally over 20 years ago, it was only in 2017 that federal authorities finally brought charges against a practitioner for performing FGM. It is clear that the need for meaningful state action is more vital than ever.

Currently, **only 33 states** in the U.S. specifically ban FGM. The remaining 17 do not have measures in place to prosecute, and prevent, FGM from taking place within their borders.



## Specific state legislation combating FGM is required so states can do more to protect their girls. State legislation will:

-  Send a **STRONG MESSAGE THAT FGM WILL NOT BE TOLERATED** in the state.
-  **GIVE PROSECUTORS THE TOOLS** and access to resources to bring perpetrators to justice.
-  Signal to state prosecutors that **FGM IS A CRIME** that must be prosecuted.
-  Fill gaps in federal legislation such as **EDUCATION AND OUTREACH TARGETED TO AT RISK COMMUNITIES** and the professionals likely to encounter girls at risk of FGM.
-  **PREVENT GIRLS BEING TRAFFICKED ACROSS STATE BORDERS** to perform FGM.

*// An ongoing challenge to prosecuting FGM is the lack of state legislation criminalizing the practice. //*

— Ayaan Hirsi Ali





## Which states are doing enough to end FGM?

The AHA Foundation has developed a 'State Grading Scale' as a resource for U.S. state legislators and constituents to understand the strength of their state's protections against FGM. Each state's code was analyzed for its strengths and weakness and a grading scale was given, as well as recommendations as to how each state can improve their grade.

### Following the FGM charges in 2017, Michigan now has one of the country's best laws

Immediately following Dr. Nagarwala being charged for FGM in Michigan, the state legislature passed the strongest and most comprehensive anti-FGM legislation in the country. Sadly, the Michigan case demonstrates the need for states to act to outlaw this practice **before** girls are mutilated in their jurisdiction.

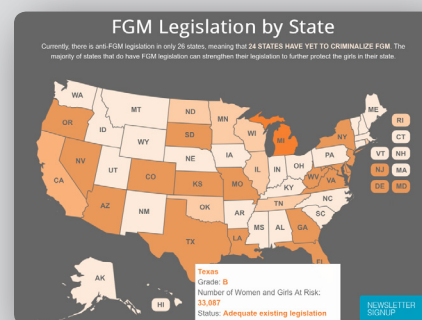
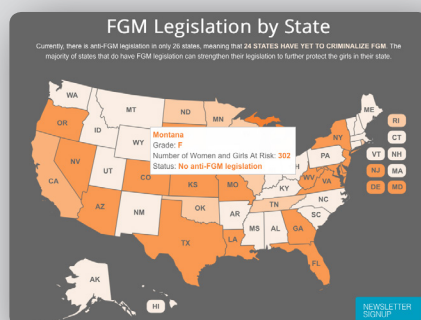
**MICHIGAN is one of the only states with an A grade.** The strength of Michigan's legislation is its holistic approach to ending FGM in the state. The law works to both stop practitioners and families from having girls undergo FGM, as well as educating communities, teachers, and law enforcement professionals of the risks and criminal penalties of FGM.

### 10 U.S. States Require Mandatory Reporting of FGM



Only a handful of states mandate reporting of FGM: **ARIZONA, ARKANSAS, DELAWARE, FLORIDA, ILLINOIS, LOUISIANA, NEVADA, SOUTH CAROLINA, TENNESSEE AND UTAH.** Though their grades vary, and each state's protections against FGM need strengthening, these states do mandate reporting of FGM by professional service providers. State anti-FGM legislation, along with child and criminal codes, instruct professionals to report cases of suspected FGM immediately to the appropriate department. This can prevent children from being subjected to the procedure or provide access to services for girls who have already undergone FGM.

**SEE HOW EACH STATE SCORES USING OUR INTERACTIVE FGM PROTECTIONS TOOL**  
<https://www.theahafoundation.org/female-genital-mutilation/fgm-legislation-by-state/>



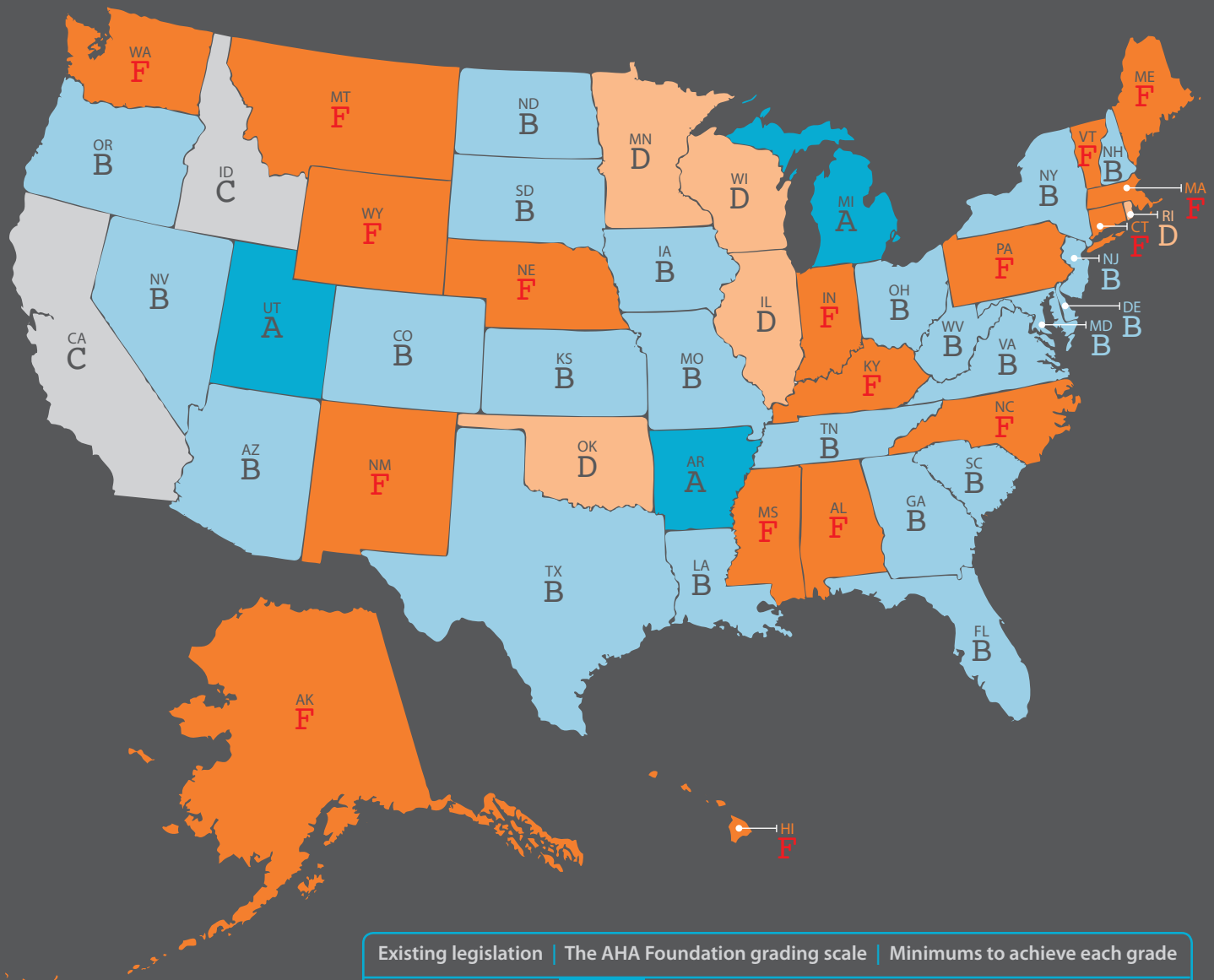
### 17 states are failing girls on FGM

The 17 states that received a failing mark provide no explicit protection for girls at risk of FGM. While some are considering legislation, progress is slow.

# FGM Legislation by State

## SCORECARD

Currently, there is anti-FGM legislation in only 33 states, meaning that **17 STATES HAVE YET TO CRIMINALIZE FGM**. The majority of states that do have FGM legislation can strengthen their legislation to further protect the girls in their state.



\*\*Idaho and Iowa law effective July 1, 2019.



## THE AHA FOUNDATION STATE FGM LEGISLATION GRADES

US STATE	IMPROVE BY ADDING:
<b>A</b>	
Arkansas*	Continue strengthening legislation to go even more above and beyond. Ex. mandated medical license revocation
Michigan	Continue strengthening legislation to go even more above and beyond. Ex. mandatory reporting, mandatory law enforcement training, etc.
Utah*	Continue strengthening legislation to go even more above and beyond. Ex. annual statistical reporting
<b>B</b>	
Arizona*	Culture is not a defense provision, education and outreach provision
Colorado*	No vacation cutting, education and outreach provision, prosecute facilitating FGM
Delaware	No vacation cutting, education and outreach provision, prosecute facilitating FGM
Florida*	Culture is not a defense provision, education and outreach provision
Georgia*	Prosecute facilitating FGM, education and outreach provision
Iowa	Prosecute parents/guardian, prosecute facilitating FGM
Kansas	Prosecute facilitating FGM, education and outreach provision
Louisiana*	Prosecute facilitating FGM, education and outreach provision
Maryland	No vacation cutting, prosecute facilitating FGM, education and outreach provision
Missouri*	No vacation cutting, education and outreach, increase age to 18 (currently at 17)
Nevada*	Education and outreach provision
New Hampshire*	Prosecute facilitating FGM, education and outreach provision
New Jersey	Prosecute facilitating FGM, education and outreach provision
New York	No vacation cutting
North Dakota	Prosecute facilitating FGM, no vacation cutting, education and outreach provision
Ohio*	Prosecute parents/guardian, prosecute facilitating FGM, education and outreach provision
Oregon*	No vacation cutting, prosecute facilitating FGM
South Carolina*	Prosecute parents/guardian, education and outreach provision
South Dakota*	Education and outreach provision
Tennessee*	Education and outreach provision
Texas	Prosecute facilitating FGM, education and outreach provision
Virginia	Prosecute facilitating FGM, culture is not a defense provision, expanded education and outreach provision
West Virginia	Prosecute facilitating FGM, no vacation cutting, education and outreach provision
<b>C</b>	
California*	Culture is not a defense provision, no vacation cutting
Idaho*	Prosecute parents/guardian, prosecute facilitating FGM, no vacation cutting, education and outreach provision
<b>D</b>	
Illinois*	Prosecute parents/guardian, prosecute facilitating FGM, no vacation cutting, culture is not a defense provision, education and outreach provision
Minnesota*	Prosecute parents/guardian, prosecute facilitating FGM, no vacation cutting, culture is not a defense provision
Oklahoma*	Prosecute parents/guardian, prosecute facilitating FGM, no vacation cutting, culture is not a defense provision, education and outreach provision
Rhode Island*	Prosecute parents/guardians, prosecute facilitating FGM, no vacation cutting, culture is not a defense provision, education and outreach provision
Wisconsin	Prosecute parents/guardian, prosecute facilitating FGM, no vacation cutting, education and outreach provision
<b>F</b>	
Alabama	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Alaska	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Arkansas	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Connecticut	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Hawaii	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Indiana	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Iowa	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Kentucky	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Maine	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Massachusetts	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Mississippi	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Montana	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Nebraska	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
New Mexico	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
North Carolina	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Pennsylvania	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Utah	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Vermont	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Washington	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision
Wyoming	Prosecute practitioner, prosecute parents/guardian, prosecute facilitating FGM, culture is not a defense provision, no vacation cutting, education and outreach provision

\*Asterisks used to show that the penalties are higher than federal law

## Recommendations to end FGM in the United States

The scale and severity of FGM in the United States requires concerted and immediate action by politicians, policy makers, and civil society alike. The AHA Foundation recommends the following actions to protect the human rights of women and girls by putting an end to FGM.

1

### MOVE BURDEN OF PROVING FGM FROM VICTIMS TO INVESTIGATORS

Survivors of FGM may be left demoralized, ashamed, and depressed. To further burden them with the task of declaring the crime, proving FGM, and pursuing a conviction is unjust. U.S. states should implement legislation and training that makes reporting known or suspected cases of FGM mandatory for service providers, in addition to providing resources for victims to quickly and secretly report to authorities.

2

### TRAIN FRONTLINE SERVICE PROVIDERS

Professionals such as teachers, doctors, midwives, and community leaders should be given training in identifying FGM survivors, as well as potential victims. These individuals yield great influence within communities and can serve as help points. As potential mandatory reporters of crime these individuals are crucial in preventing FGM among victims who may not be empowered to openly acknowledge what has occurred. Education and training should also be incorporated into a formal continuing development program for medical professionals and law enforcement.

3

### ADOPT AN FGM TRACKING SYSTEM SIMILAR TO THE UNITED KINGDOM

The UK's National Health Service collects data from midwives, ob-gyns, and other medical professionals on the number of cases of FGM they encounter. This tracking system is vital to begin to understand the extent of the problem in the United States.

4

### INCORPORATE FGM INFORMATION INTO MANDATORY SEX EDUCATION IN SCHOOLS

It is important to educate minors on what FGM entails and the risks associated with it so they are aware of their rights and whom they can contact for help. It will also raise new generations of females and males who understand the harms caused by the practice and the need to end it.

5

### ADDRESS THE ROOT OF THE PROBLEM

We must educate women on their right to be free of gender-based violence and in doing so empower them to be their own saviors and that of girls in their community. Open and honest debate is necessary to disassociate notions of 'honor' and 'marriage-ability' from female sexual pleasure, and to tear down myths pertaining to religious sanctioning of FGM. Open dialogue will help remove the stigma surrounding FGM and empower communities to speak up and enact real change. Furthermore, politicians, policy makers, and agencies must move away from political correctness in the name of assumed cultural authenticity.

The AHA Foundation believes in liberty for all people.

The AHA Foundation was established by Ayaan Hirsi Ali in 2007 to put the ideas she writes about into practice.

The organization advocates liberty for all by championing human rights and individual liberties above cultural, social or religious imperatives.

As a 501(c)3 non-profit, the AHA Foundation, raises funds and leads programs to protect women from honor violence, to advance freedom of speech on campuses and in public debate, as well as supporting the work of exMuslims and Muslim reformers.



Contact us

[info@theahafoundation.org](mailto:info@theahafoundation.org)

[www.theahafoundation.org](http://www.theahafoundation.org)