

FGM  
SURVIVOR'S  
GUIDE

— TO —

LEGAL  
REMEDIES

IN THE STATE OF  
GEORGIA

DEVELOPED FOR [AHA FOUNDATION](#)

THROUGH THE PRO BONO ASSISTANCE OF

WHITE & CASE LLP

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LAST UPDATED: AUGUST, 2022





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# DISCLAIMER

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THE CONTENTS OF THIS GUIDE ARE INTENDED TO CONVEY GENERAL INFORMATION ONLY AND ARE NOT INTENDED TO PROVIDE LEGAL ADVICE OR OPINIONS FOR ANY PURPOSE OR CIRCUMSTANCE. THE CONTENTS OF THIS GUIDE SHOULD NOT BE CONSTRUED AS, NOR RELIED UPON FOR, LEGAL ADVICE IN ANY CIRCUMSTANCE OR SITUATION. AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF GEORGIA SHOULD BE CONTACTED FOR ADVICE ON SPECIFIC LEGAL ISSUES. THIS GUIDE IS NOT A SUBSTITUTE FOR AN IN-PERSON OR TELEPHONE CONSULTATION WITH AN ATTORNEY LICENSED TO PRACTICE LAW IN GEORGIA CONCERNING ANY SPECIFIC LEGAL ISSUE. THIS GUIDE IS UP TO DATE AS OF MAY 18, 2022.

## INTRODUCTION

This Guide aims to provide survivors of female genital mutilation (“FGM”) with a comprehensive framework explaining both civil and criminal remedies available to them in the courts of Georgia, United States of America (“USA”).

In 1996, Congress passed the Federal Genital Mutilation Act, which made performing FGM on anyone under the age of 18 a felony in the USA. However, in 2018, the District Court of the Eastern District of Michigan held that the 1996 federal criminal statute prohibiting and criminally punishing FGM, codified as 18 U.S.C § 116, was unconstitutional. While the Department of Justice did not appeal the court’s decision, President Trump signed the STOP FGM Act of 2020 in 2021 to reaffirm the 1996 law and ensure the prohibition of FGM on minors under federal law.

Current federal law provides federal authorities the power to prosecute any person who performs, attempts to perform, facilitates, consents to, or transports a minor for the purpose of FGM. Violation of the law can result in a fine, imprisonment of up to 10 years, or both. The law also requires government agencies to report to Congress: (1) the estimated number of females who are at risk of or have undergone FGM, and (2) the agencies’ efforts to prevent FGM. While federal laws are important to protect survivors from this painful practice, state criminalization laws are equally necessary to provide legal recourse to FGM survivors.

Georgia offers a range of legal remedies through its state court system in relation to FGM. Georgia criminal law allows FGM to be prosecuted under: (1) FGM specific criminal statutes, (2) non-FGM specific criminal statutes, and (3) general criminal law principles. Survivors of FGM cannot bring the relevant criminal action themselves, as such actions are brought by the state through prosecuting attorneys, however they can report the crime of FGM to law enforcement and provide valuable assistance to the prosecuting attorneys bringing those actions.

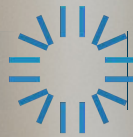
In addition to the criminal charges, Georgia offers FGM survivors additional legal remedies through its state civil court system. Although there is no specific civil cause of action addressing FGM, there are a number of civil causes of action available under common law to survivors of FGM. An FGM survivor can commence a civil cause of action on their own or through a legal representative, including for assault, battery and intentional infliction of emotional distress. Please see below for further information, but note that the relevant action may be subject to time limitations – in most instances the relevant civil proceeding must be commenced within 2 years after the date the battery/assault/intentional infliction of emotional distress occurred, provided that individuals who are less than 18 years old when the act occurs have 2 years to commence legal action following the individual’s 18th birthday. Similarly, individuals suffering from an intellectual disability or mental illness at the time the act occurred have 2 years following the resolution of their disability to commence legal action.

## HOW DO I KNOW WHETHER I'M A SURVIVOR OF FEMALE GENITAL MUTILATION?

The United Nations (“UN”) has estimated that 200 million girls and women alive today have undergone some form of FGM. Although primarily concentrated in 30 countries across Africa and the Middle East, FGM is also practiced in some countries in Asia and Latin America and amongst immigrant populations living in Western Europe, North America, Australia and New Zealand.

A description of the different types of FGM can be found at <https://www.who.int/health-topics/female-genital-mutilation#tab=tab>, and the different practices in various communities and countries of origin can be found at <http://www.28toomany.org/>. If you are unsure whether you are a survivor of FGM, you should consult your doctor or OB/GYN or contact [help@theahafoundation.org](mailto:help@theahafoundation.org).

<https://www.un.org/en/observances/female-genital-mutilation-day>.



## REMEDIES AVAILABLE TO SURVIVORS UNDER GEORGIA ANTI-FGM LAWS

GEORGIA IS ONE OF 40 STATES IN THE U.S. THAT HAVE DECLARED THE PRACTICE OF FGM A CRIMINAL ACT. IN GEORGIA, PERPETRATORS OF FGM AGAINST MINORS, THOSE WHO TRANSPORT A FEMALE UNDER 18 YEARS OF AGE WITHIN OR OUT OF THE STATE OF GEORGIA FOR THE PURPOSE OF FGM, OR LEGAL GUARDIANS OF A MINOR WHO CONSENT TO THE PROCEDURE, CAN BE PROSECUTED UNDER CRIMINAL LAW. SURVIVORS OF THE CRIME ALSO HAVE MANY OTHER LEGAL REMEDIES AVAILABLE TO SEEK REDRESS AGAINST THEIR PERPETRATORS AND RECEIVE FORMS OF COMPENSATION THROUGH CIVIL CAUSES OF ACTION. THEREFORE, GEORGIA'S CIVIL LAW AND CRIMINAL LAW OFFER DIFFERENT FORMS OF JUSTICE TO SURVIVORS OF FGM.

GEORGIA CRIMINAL LAW AFFORDS FGM VICTIMS A THREE-PRONGED REDRESS THROUGH: (1) FGM SPECIFIC CRIMINAL STATUTES, (2) NON-FGM SPECIFIC CRIMINAL STATUTES, AND (3) GENERAL CRIMINAL LAW PRINCIPLES. A CRIMINAL ACTION IS A LAWSUIT BROUGHT BY A PUBLIC PROSECUTOR, WHO IS AN EMPLOYEE OF EITHER THE FEDERAL, STATE, OR LOCAL GOVERNMENT. CRIMINAL PROSECUTIONS AGAINST PERPETRATORS OF FGM UNDER GEORGIA LAW CAN BE BROUGHT ONLY BY STATE PROSECUTORS. WHILE SURVIVORS OF FGM CANNOT BRING CRIMINAL ACTIONS THEMSELVES, THEY CAN REPORT THE CRIME OF FGM TO LAW ENFORCEMENT AND PROVIDE VALUABLE ASSISTANCE TO THE PROSECUTING ATTORNEYS BRINGING THOSE ACTIONS. FGM SURVIVORS MAY PARTICIPATE IN THE COURT PROCEEDINGS, AS THE COURT WILL PERMIT THE FGM VICTIM OR THEIR LEGAL REPRESENTATIVE TO MAKE AN ORAL STATEMENT DURING THE HEARING. IF THE DEFENDANT IS FOUND GUILTY IN A CRIMINAL CASE, THEY MAY BE PUNISHED WITH FINES, TIME IN PRISON, OR BOTH. THE SAME WRONGFUL CONDUCT MAY GIVE RISE TO BOTH CRIMINAL AND CIVIL CHARGES, AND SO SURVIVORS SHOULD ALWAYS CONSIDER PURSUING BOTH FORMS OF RELIEF.

A CIVIL LAWSUIT IS BROUGHT BY A PRIVATE CITIZEN CALLED THE "PLAINTIFF". IN THE CASE OF FGM, THE PLAINTIFF IS USUALLY THE SURVIVOR. THE PERSON BEING SUED IS CALLED THE "DEFENDANT". IN THE CASE OF FGM, THE DEFENDANT IS USUALLY THE CUTTER OR SOMEONE WHO ASSISTED THE CUTTER. IF THE DEFENDANT IS FOUND LIABLE IN A CIVIL CASE, THEY MAY BE ORDERED TO PAY MONEY TO THE PLAINTIFF.

WE WILL DISCUSS THE CRIMINAL AND CIVIL OPTIONS IN TURN.

## CRIME SPECIFIC TO FGM, (O.C.G.A § 16-5-27)

Georgia law defines FGM as the circumcision, excision, or infibulation, in whole or in part, of the labia majora, labia minora, or clitoris. An individual who knowingly commits FGM on a person under the age of 18 for non-medical purposes, or transports the person under the age of 18 within or out of the state of Georgia to commit, or for another person to commit, FGM could face between 5 to 20 years imprisonment. Parents, guardians or people in immediate custody or control of a person under the age of 18 who knowingly consent to or permit the performance of FGM or permit removal from the state for the purpose of FGM could be subject to the same sentence.

It is not a defense that the defendant believes that their actions were conducted as a matter of custom or ritual or that the person on whom the FGM was performed, or that the person's parent or guardian, consented to the procedure.

It is not a violation of law if the procedure was: (1) a necessary medical treatment to protect the health of the person on whom it was performed or a gender reassignment requested by the person on whom it was performed; and (2) performed by a licensed medical provider.

The statutory evidentiary privileges in Chapter 5 of Title 24 of the Georgia Code (the "Code") do not apply to the offense of FGM. These privileges include that parties or witnesses are not required to testify in a criminal proceeding if the testimony would incriminate such party or witness, and spouses cannot generally be compelled to testify in a proceeding involving the other spouse. These privileges are eliminated in FGM offenses only with respect to the specific act of FGM.

# OTHER CRIMINAL AND CIVIL CAUSES OF ACTION AVAILABLE TO SURVIVORS OF FGM IN GEORGIA:

## ADDITIONAL CRIMINAL LAWS

### ASSAULT AND RELATED CRIMES

IN ADDITION TO BEING CHARGED WITH AN FGM SPECIFIC CRIME, A PERPETRATOR CAN ALSO BE CHARGED WITH VARIOUS NON-FGM SPECIFIC CRIMES AS DESCRIBED BELOW. A MISDEMEANOR IN RELATION TO THE OFFENSES SET OUT IN PARAGRAPHS 4.1.1, 4.2.2, AND 4.3 IS PUNISHABLE BY A FINE UP TO \$1,000 OR 12 MONTHS IMPRISONMENT OR BOTH.

#### ASSAULT

##### 1. SIMPLE ASSAULT (O.C.G.A § 16-5-20)

“Simple Assault” is an attempt or threat to inflict violent injury on another person. An individual who commits the offense of simple assault is guilty of a misdemeanor. If the offense is committed by parents, stepparents, foster parents, or other persons living formerly in the same household (excluding siblings), the defendant is guilty of a misdemeanor of a high and aggravated nature.

##### 2. AGGRAVATED ASSAULT (O.C.G.A § 16-5-21))

“Aggravated Assault” occurs when a person assaults another person with a deadly weapon or with any object, device or instrument which, when used offensively, is likely to or actually does result in serious bodily injury.

The punishment for aggravated assault is for between a minimum term of 1 year and a maximum of 20 years imprisonment. If the offense is committed by parents, stepparents, foster parents, or other persons living formerly in the same household (excluding siblings), the punishment is minimum 3 years and maximum 20 years imprisonment.

#### BATTERY

##### 1. SIMPLE BATTERY (O.C.G.A § 16-5-23)

“Simple Battery” is committed when a person intentionally makes physical contact of an insulting or provoking nature or intentionally causes physical harm, to another person.

A person convicted of simple battery is guilty of a misdemeanor. If the offense is committed by parents, stepparents, foster parents, or other persons living formerly in the same household (excluding siblings), the defendant is guilty of a misdemeanor of a high and aggravated nature.



## 2. BATTERY (O.C.G.A. § 16-5-23.1)

“Battery” is committed when a person intentionally causes substantial physical or visible bodily harm to another person. The Code defines “visible body harm” as bodily harm capable of being perceived by a person other than the victim and may include, but is not limited to, substantially blackened eyes, substantially swollen lips or other facial or body parts, or substantial bruises to body parts.

A person who commits a battery is guilty of a misdemeanor. If the offense is committed by parents, stepparents, foster parents, or other persons living formerly in the same household, the defendant is guilty of family battery and should be punished for this offense, not battery.

## 3. AGGRAVATED BATTERY (O.C.G.A. § 16-5-24)

“Aggravated Battery” is committed when a person maliciously causes bodily harm to another person by (1) depriving them of a part of that other person’s body, (2) rendering a part of that other person’s body useless or (3) seriously disfiguring that other person’s body or part of it.

The punishment for aggravated battery is for between a minimum term of 1 year and a maximum of 20 years imprisonment. If the offense is committed by parents, stepparents, foster parents, or other persons living formerly in the same household (excluding siblings), the punishment is minimum 3 years and maximum 20 years imprisonment.

## RECKLESS CONDUCT CAUSING HARM TO OR ENDANGERING THE BODILY SAFETY OF ANOTHER (O.C.G.A. § 16-5-60)

Reckless Conduct Causing Harm to or Endangering the Bodily Safety of Another is an offence committed when a person causes bodily harm or endangers the bodily safety of another person by consciously disregarding a substantial and unjustifiable risk that their act or omission will cause harm or endanger the safety of the other person. The act of such disregard has to constitute a gross deviation from the standard of care which a reasonable person would exercise in such a situation. A person convicted of reckless conduct is guilty of a misdemeanor.

### KIDNAPPING (O.C.G.A. § 16-5-40)

Kidnapping occurs when a person abducts or steals away another person without lawful authority or warrant and holds such other person against their will. Only a slight movement of the victim is required for the offense to occur and any such slight movement should not be incidental to another offense. Movement is considered incidental if it:

1. conceals or isolates the victim;
2. makes the commission of the other offense substantially easier;
3. lessens the risk of detection; or
4. is for avoiding apprehension.

As set out below, the punishment for kidnapping is dependent on the age of the victim and whether it involved a ransom or bodily injury:

1. Victim 14 years of age or older: 10 years minimum and 20 years maximum imprisonment.
2. Victim younger than 14 years of age: life imprisonment or a split sentence for a term of 25 years minimum imprisonment (but not exceeding life imprisonment) followed by probation for life.
3. If kidnapping was for a ransom: life imprisonment or death penalty.
4. If the person kidnapped received bodily injury: life imprisonment or death penalty.

### FALSE IMPRISONMENT (O.C.G.A. § 16-5-41)

False imprisonment occurs when a person arrests, confines or detains another person without legal authority, in violation of the personal liberty of that other person. The punishment for false imprisonment is for between a term of 1 year minimum and 10 years maximum imprisonment.

Any person convicted of the offense of false imprisonment, where the victim is not their child and is younger than the age of 14, is also subject to the sentencing and punishment provisions of section 17-10-6.2 of the Code.

## CONSPIRACY AND RELATED CRIMES

### CONSPIRACY (O.C.G.A. § 16-4-8)

The offense of conspiracy is committed when a person, together with one or more other persons, conspires to commit any crime and any of these persons does any obvious act to effect the object of the conspiracy.

The punishment for conspiracy differs on the nature of crime conspired to have been committed as follows:

1. **Felony:** for between a term of 1 year minimum and one-half maximum of the period for which the person would have been sentenced if they had been convicted of the crime conspired to have been committed, or a maximum of one-half of the fine to which they could have been subjected if they had been convicted of such crime, or both.
2. **Misdemeanor:** punished as for a misdemeanor.
3. **Crime punishable by death or by life imprisonment:** for between a term of 1 year minimum and 10 years maximum imprisonment.

### ATTEMPT (O.C.G.A. § 16-4-1)

A person commits the offense of criminal attempt when they have the intent to commit a specific crime and they perform any act that constitutes a substantial step towards committing that crime.

The punishment for conspiracy differs on the nature of crime conspired to have been committed as follows:

1. **Crime punishable by death or life imprisonment:** not less than one year nor more than 30 years.
2. **Felonies:** not less than one year nor more than one-half the maximum period of time for which he or she could have been sentenced if he or she had been convicted of the crime attempted, by one-half the maximum fine to which he or she could have been subjected if he or she had been convicted of the crime attempted, or both.
3. **Misdemeanor:** punished as for a misdemeanor.

## CRIMINAL SOLICITATION (O.C.G.A. § 16-4-7)

Criminal solicitation occurs when a person, with intent that another person engages in a felony, solicits, requests, commands, importunes or otherwise attempts to cause the other person to engage in conduct constituting a felony. It is not a defense for the accused that the person solicited could not be guilty of the crime solicited. The provisions of this section are cumulative and should not supersede any other penal law of the state of Georgia.

The punishment for criminal solicitation is for between a term of 1 year minimum and 3 years maximum imprisonment. If the criminal solicitation was to commit a crime punishable by death or life imprisonment, then the punishment is for between a term of 1 year minimum and 5 years maximum imprisonment.

## STATUTES OF LIMITATION

### GENERALLY (O.C.G.A. § 17-3-1)

The time within which prosecution should be commenced depends on the punishment for the crime (except as otherwise provided in section 17-3-2.1 of the Code) as follows:

1. Death or life imprisonment: within 7 years after the commission of the crime, except for the crime of forcible rape which should be commenced within 15 years.
2. Felonies other than the ones mentioned above and murder: within 4 years after commission of the crime provided that prosecution for felonies committed against victims who are at the time of the commission of the offense under the age of 18 should be commenced within 7 years.
3. Misdemeanors: within 2 years after the commission of the crime.

### PERIODS EXCLUDED (O.C.G.A. § 17-3-2)

The period within which a prosecution must be commenced under section 17-3-1 of the Code or other applicable statute does not include any period in which:

1. the accused is not usually and publicly a resident within the state of Georgia; and
2. the person committing the crime is unknown or the crime is unknown.

## CIVIL CAUSES OF ACTION

GEORGIA DOES NOT HAVE A SPECIFIC CIVIL CAUSE OF ACTION RELATED TO FGM. HOWEVER, THE CIVIL CAUSES OF ACTION SET OUT IN THIS PARAGRAPH ARE AVAILABLE UNDER COMMON LAW TO SURVIVORS OF FGM. AN ACTION MUST BE COMMENCED WITHIN A PERIOD OF TWO YEARS AFTER THE COMMISSION OF THE OFFENSES OUTLINED BELOW, PROVIDED THAT INDIVIDUALS WHO ARE LESS THAN 18 YEARS OLD OR SUFFER FROM AN INTELLECTUAL DISABILITY OR MENTAL ILLNESS WHEN THE ACT OCCURS SHALL HAVE 2 YEARS TO COMMENCE LEGAL ACTION FOLLOWING THE INDIVIDUAL'S 18TH BIRTHDAY OR RESOLUTION OF THE INTELLECTUAL DISABILITY OR MENTAL ILLNESS.

### ASSAULT

An assault is any unlawful act, in the apparent circumstances and reasonably viewed, that would lead a person to reasonably believe that they are at risk of being violently injured as a result of such act.

### BATTERY

Battery is when a person intentionally acts in a manner that causes a harmful or offensive contact with another. For this cause of action, the degree of injury caused is irrelevant and includes any unlawful touching or unauthorised offensive contact, regardless of whether it may be minimal.

“Offensive contact” is defined as any offensive touching that proceeds from anger, rudeness or lust. What constitutes “offensive” is considered with reference to what an ordinary person who is not unduly sensitive as to their dignity may perceive it as.

### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

A person (the “claimant”) suing for intentional infliction of emotional distress must establish that (i) the defendant’s conduct was intentional or reckless; (ii) the conduct was extreme and outrageous; (iii) the wrongful conduct caused the emotional distress; and (iv) the emotional distress was severe. What constitutes “extreme and outrageous” conduct is a question of law for the court to decide. Conversely, whether there was in fact such conduct which then resulted in severe emotional distress depends on the facts and evidence available and shall be decided by the jury. A claim can only be sustained if the severity of emotional distress was such that no reasonable person can be expected to endure it.

## FALSE IMPRISONMENT

False imprisonment is the unlawful detention created by way of restraining a person's movement against their will, accomplished either by force or fear, for any length of time. The restraint may be by actual physical restraint, or by words or threats providing reasonable fear that physical force will be used against the victim.

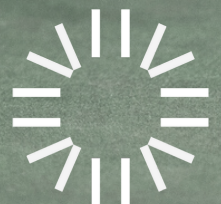
Here, the limitation period starts to run only when the victim is released from false imprisonment.

## NEGLIGENT SUPERVISION

All persons may be held liable for any negligent action committed by their spouse, child or employees.

## PARENTAL IMMUNITY DOCTRINE

If the victim is an unemancipated minor child, they have no cause of action against their parent(s) for simple negligence. However, they may be able to maintain an action for personal injuries against their parent(s) for committing a wilful or malicious act of cruelty by which the parent would be regarded as having forfeited their parental authority.



# RIGHTS OF ALL SURVIVORS UNDER THE GEORGIA CRIMINAL JUSTICE SYSTEM

## GENERAL SUMMARY (O.C.G.A. § 17-17-1)

The Georgia Crime Victims' Bill of Rights, enacted on 1 January 2019 (the "Code"), provides individuals who are victims of certain crimes, including FGM survivors, specific rights. Such rights include: being treated fairly; being notified of court proceedings and ensuring that those proceedings are free from unreasonable delay; being notified of the arrest, release, or escape of the accused; filing written objections to parole proceedings, conferring with the prosecuting attorney; and the right to restitution.

The Code applies to victims of the following crimes (among others): assault and battery, kidnapping, false imprisonment, reckless conduct, cruelty to children, and all sexual offenses. The protection or redress afforded by the Code extends to FGM survivors and victims as applicable.

### O.C.G.A. § 17-17-4

A victim who is physically unable to exercise the privileges or rights afforded to them under the Code may designate their spouse, adult child, sibling, or grandparent to act in their place for the duration of their physical disability. However, any related notices will continue to be given to only the victim.

## NOTIFICATION RIGHTS

### O.C.G.A. § 17-17-5

Victims who have provided their contact details have the right to be notified of the accused's arrest; their release from custody and certain terms of that release; any proceedings considering the release of the accused; and the escape of the accused. This also applies where the accused is released or discharged from the Department of Behavioral Health and Developmental Disabilities.<sup>[1]</sup>

### O.C.G.A. § 17-17-6

Upon initial contact with a victim, all law enforcement and court personnel must provide written information to the victim in relation to: the possibility of pre-trial release of the accused; the victim's rights and role during the different stages of any criminal proceedings against the accused; the ways in which the victim can access further information about the criminal proceedings; the availability of victim compensation; and the availability of community based victim service programs.

**O.C.G.A. § 17-17-7**

The investigating law enforcement agency shall, where possible, notify the victim when the accused is arrested. Whenever possible, the prosecuting attorney shall notify the victim where potential release proceedings will be considered and offer the victim the opportunity to express their opinion on the accused's release. Where the court has granted the pre-trial release of the accused, the victim has the right to file a written complaint with the prosecuting attorney detailing any threats or acts of physical violence or intimidation against the victim or their family. The prosecuting attorney may then request that the court revoke the accused's bond and order the accused to return to jail until their court date.

**O.C.G.A. § 17-17-8**

At the first meeting or contact with the victim, a prosecuting attorney shall explain to the victim: (1) how a criminal case proceeds in the justice system; (2) that the victim has rights, including restitution; (3) suggested procedures to follow if the victim is threatened or intimidated; (4) the contact details of persons at the office where the accused is being held and the prosecuting attorney's office; and (5) the contact details of persons at the investigating agency where the victim may make an application for the return of any of their property which was taken during the course of the investigation. The victim may also request in writing to be promptly notified by the prosecuting attorney of any scheduled court proceedings or changes to that schedule.

Where a victim is seeking restitution (i.e. monetary compensation for an injury or loss), the victim must provide to the prosecuting attorney their contact details, social security number, date of birth, and the details of a contact who may be reached if the victim is unavailable. The prosecuting attorney shall advise the victim of any agency which will be provided with the victim's information so that the victim may update those agencies if their details change. All such information will be treated as confidential.

**O.C.G.A. § 17-17-12**

A victim may request in writing that the prosecuting attorney notify them: (1) when the accused files a motion for a new trial, appeals their conviction, or asks for a new trial based on newly discovered evidence; (2) when the accused has been released on bail pending a motion or appeal; and (3) of the time and place of any appellate court proceedings relating to such motion or appeal and of the results of that motion or appeal. The victim has the same rights if the accused is granted a new trial or the conviction is reversed or remanded and the case returned to trial for further proceedings.

**O.C.G.A. § 17-17-13**

The State Board of Pardons and Paroles shall give 20 days' notice to a victim where it considers granting a pardon, parole, or any other action to release the defendant for a period of more than 60 days. In addition to notice, the board must also provide the victim with the opportunity to file a written objection to such action. However, the board is required to give such notice and the opportunity to object the pardon or parole only if the victim has provided the board with a current address and telephone number and expressed a desire for such notification.



## TRIAL RIGHTS

### O.C.G.A. § 17-17-8.1

A victim can refuse a request for interview by the accused, the accused's attorney or an agent of the accused. The accused or any of their agents shall not contact the victim in an unreasonable manner or where the victim has expressed their desire not to be contacted. If the victim agrees to be interviewed, the victim may set conditions for such interview, which may include but are not limited to: time, date, location, persons to be present (including the prosecuting attorney and the victim's agent), and any security arrangements. The prosecuting attorney shall not on their own accord take any action to deny the accused's attorney access to a victim for the purpose of interviewing them.

### O.C.G.A. § 17-17-9

A victim has the right to be present at every criminal proceedings in which the accused has the right to be present. Generally, the victim and their immediate family members cannot be excluded from any hearing, trial, or proceeding pertaining to the offense against the victim. However, if the victim's immediate family member is ordered to testify, and it is established that the witness will testify on matters that have a substantial likelihood of affecting the outcome of the trial, the court might not allow the witness to enter the courtroom until it is their turn to testify. This exclusion is intended to prevent material witnesses from tailoring their testimony based on what other witnesses have said. A victim of a criminal offense who is subpoenaed to testify at such hearing or trial shall be exempt from provisions requiring witness exclusion from the courtroom until they testify, provided, however, that the court shall require that the victim testify as early in the proceedings as possible. A judge may still remove any person from the courtroom for any of the reasons they would be able to usually. A motion to exclude a victim or family members from the courtroom for any reason other than misconduct shall be made and determined prior to a jury being selected and taking the juror's oath. If a victim is excluded from the courtroom, they will have the right to wait in a room separate from the accused, the accused's family and friends, and witnesses for the accused - provided such space is available. If a separate space is not available, the victim may ask the prosecuting attorney to request that the court attempt to minimize the victim's contact with the accused, the accused's relatives and friends, and witnesses for the accused during the proceeding.

### O.C.G.A. § 17-17-9.1

Communications between a victim and victim assistance personnel, other than law enforcement officers, who are appointed by the prosecuting attorney and any notes, memoranda, or other records made by such personnel, shall be protected from disclosure except where such disclosure is required by law. The general exceptions that apply to attorney work product may apply.

**O.C.G.A. § 17-17-10**

The court may require counsel and officers of the court to not transmit or permit transmission to the defendant of the victim's current address, telephone number, or place of employment.

**O.C.G.A. § 17-17-11**

The prosecuting attorney shall offer the victim the opportunity to express their opinion regarding plea or sentence negotiations, and the opportunity to participate in pre-trial or post-conviction diversion programs regarding the accused.

**O.C.G.A. § 17-17-12.1**

A victim has the right to request not to receive any form of communication from an inmate who committed a criminal offense against them, and this right extends to any members of the victim's family or household during the term of the sentence imposed on the inmate. Shortly after conviction or adjudication, the prosecuting attorney shall provide to the victim instructions for blocking such communication.

**O.C.G.A. § 17-17-14**

Where the victim wishes to be notified of any rights, responsibilities, or progress in relation to any of the matters discussed in this section, the victim must provide their contact details to: (1) the investigating law enforcement agency; (2) the prosecuting attorney until completion of the criminal conviction process; (3) the sheriff if the accused is in the sheriff's custody for pre-trial, trial or post-conviction proceedings, the Department of Corrections if the accused is in the custody of the state; or any country correctional facility the defendant is sentenced to serve time in; (4) the Department of Community Supervision; and (5) the State Board of Pardons and Paroles.

**O.C.G.A. § 17-17-15**

Failure to provide or to timely provide any of the information or notifications required by the victim pursuant to this chapter shall not subject the person responsible for such notification or that person's employer to any liability for damages. However, where a victim has made a written request to the prosecuting attorney to be notified of all proceedings and provided their contact information, and they subsequently assert they were not notified, they may file a motion to the court to be heard on such matter. Such motion shall be filed no later than 20 days after the claimed denial. The court may set the motion for a hearing or dispose of it, and this decision shall be final.

**O.C.G.A. § 17-17-16**

A superior court may issue a temporary restraining order or protective order to prohibit harassment of a victim or witness if the court finds there are reasonable grounds to believe such harassment exists or in order to prevent it from happening.

# Article 1.

## VICTIMS COMPENSATION AND VICTIMS COMPENSATION STATUTES

### GENERAL SUMMARY (O.C.G.A. § 17-15-1 et seq.)

The Georgia Crime Victims Compensation Program (the “Program”) provides limited assistance to victims and their families to cover expenses related to medical bills, funeral expenses, mental health counseling, and crime scene sanitization, as well as loss of income or support. A person may qualify to receive assistance from the Program if the person: was physically injured; was hurt trying to help a victim or witnessed a violent crime; suffered serious mental or emotional trauma as a result of being threatened or being present during a violent crime; is a parent or guardian of someone who was killed or injured as a result of a violent crime; is not the victim, but has been paying bills related to the crime; has a child who was the victim and the person relied on the offender for financial support; or was the victim of family violence and relied on the offender for financial support. An application for compensation can be found at <https://crimevictimscomp.ga.gov/our-programs/victims-compensation/>.

### O.C.G.A. § 17-15-5

An eligible victim, or their parent or guardian if the victim is mentally incompetent or a minor, may submit a claim for compensation to the Georgia Crime Victims Compensation Board (the “Board”) in person or by mail. If the victim is deceased, a claim may be filed on their behalf by an individual authorized to administer their estate. The claim must be filed within 3 years after the occurrence of the crime or death of the victim, but in the case of a minor, within 3 years of the victim’s 18th birthday. The Board may also extend the period for filing a claim for an established good cause.

The claim for compensation should contain: (1) a description of the date, nature, and circumstances of the crime; (2) a complete financial statement including (but not limited to) the cost of medical care, burial expenses, loss of wages or support, and other emergency expenses; (3) a statement indicating the extent of any disability, or mental or emotional trauma resulting from the crime; (4) an authorization permitting the Board to verify the contents of the application; and (5) any other information the Board may require.

### O.C.G.A. § 17-15-6

A claim for compensation shall be assigned to an investigator (the “Investigator”). Claims will be investigated and determined regardless of whether the perpetrator has been apprehended, prosecuted or convicted of the crime, or acquitted or found not guilty. After the investigation, the Investigator shall file with the director of the Criminal Justice Coordinating Council (the “Director”) a written report setting forth the Investigator’s findings and a recommendation. The Director will then render a decision and furnish the applicant with a copy of the report, if requested by the applicant. The applicant may write to the Director requesting a review of the decision within 30 days of receipt of the decision. Upon receipt of the application for review, the Director will forward all relevant documents to the Board, who will review the records and affirm or modify the decision or order a hearing if necessary. The Board will make a decision within 90 days after completion of the investigation. The Director will notify the applicant within 10 days of the Board’s final decision.

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## O.C.G.A. § 17-15-7

A person is eligible for compensation if they (1) are physically injured, die, or suffer financial hardship as a result of the physical injury sustained, or they are a dependent spouse, parent, step-parent, child or step-child of such a person; (2) suffered serious mental or emotional trauma as a result of being threatened with a crime which could result in serious injury or death; or (3) are a victim of family violence.

Any person who goes to the aid of another and suffers physical injury, serious mental or emotional trauma, or death as a result of trying to prevent the commission of a crime or, in aiding a victim or any person injured, traumatized or killed while aiding or attempting to aid a law enforcement officer in the prevention of crime, will also be eligible for compensation.

A victim may be a legal resident or non-resident of the state of Georgia. A surviving spouse, parent, step-parent, child, or step-child who is a legal dependent (a "Dependent") of a deceased victim may make a claim for compensation regardless of the Dependent's nationality or residence. Victims of crimes occurring within the state of Georgia that are prosecuted under federal law shall be compensated on the same basis as victims of crimes that are prosecuted under state law. No award for compensation may be granted where (1) the applicant is confined in any correctional facility; (2) the crime occurred before July 1, 1989; (3) the applicant is criminally responsible for the crime, or (4) the application is for loss of property. A victim who has been convicted of a felony involving criminally injurious conduct (such as physical injury, serious mental or emotional trauma, or death) and who is serving a sentence shall not be considered eligible to receive such an award. A claim for compensation shall not be refused on the basis of the victim or claimant being a relative of the person who is criminally responsible for the crime.

## O.C.G.A. § 17-15-8

An award for compensation may be granted if the Director finds that a crime was committed, and the crime directly resulted in the victim's physical injury, serious mental or emotional trauma, financial hardship, or death. Furthermore, the records must also show that the crime was reported to the proper authorities within 72 hours of its occurrence, unless the Board finds the delay to be justified – in which case the period may be extended. The applicant must have also pursued restitution rights against the person who committed the crime to be eligible for compensation, unless the Director determines such action would not be feasible. The Board may reduce, deny or withdraw an award if the claimant or recipient has not fully cooperated with all law enforcement agencies. The Director and Board shall consider whether the victim contributed to the infliction of their injury, trauma or financial hardship when determining an award for compensation.

Any compensation awarded to the victim or an eligible person will be limited to the actual expenses reasonably incurred for medical care, loss of wages, funeral expenses, mental health counselling, or support for Dependents of a deceased victim as a result of the injury or hardship upon which the claim is based. A compensation award may be reduced by any other compensation received or due to be received as a result of the injury or

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trauma from or on behalf of the person who committed the crime, and any other private or public source, including an award of workers' compensation. Private sources will not include contributions from family members or persons or private organizations making charitable donations to the claimant.

The compensation awarded will depend on the date the crime occurred i.e. if the crime occurred: (1) before July 1, 1994, the maximum award cannot exceed \$1,000; (2) on or after July 1, 1994, the maximum award cannot exceed \$5,000; (3) on or after July 1, 1995, the maximum award cannot exceed \$10,000; or (4) on or after July 1, 2002, the maximum award cannot exceed \$25,000. Any claim filed for serious mental or emotional trauma may only be awarded for crimes occurring after July 1, 2009.

AWARD CAPS	
CATEGORY	MAXIMUM AWARD (\$)
Lost wages	10,000.00
Funeral expenses	6,000.00
Financial hardship or loss of support	10,000.00
Medical	15,000.00
Counseling	3,000.00
Crime scene sanitization	1,500.00

An award for compensation does not constitute ordinary taxable income. Similarly, the award is not subject to garnishment, execution, or attachment other than for expenses resulting from the injury or serious mental or emotional trauma, which is the basis for the claim.

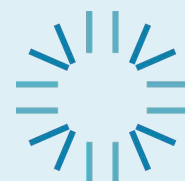
PRACTICAL PROTECTIVE STEPS

FGM can cause physical and mental health problems that go on to affect survivors later in life, including, but not limited to, irregular periods, bladder problems, recurrent infections and natural child-birth challenges. In addition, FGM is often followed by early marriage at the detriment of the survivor's education and career.

If you are a victim of FGM, or suspect that you might know someone who may be a victim, speak to a medical practitioner or agencies and charities campaigning against the practice in relation to any physical or mental challenges faced. There are also community education programs and FGM survivor support groups that can provide additional care and encourage greater awareness.

CONCLUSION

FOR MORE INFORMATION, PLEASE CONTACT AHA FOUNDATION AT [INFO@THEAHAFFOUNDATION.ORG](mailto:INFO@THEAHAFFOUNDATION.ORG).



# ANNEX



## REFERENCES

- 1 <https://www.un.org/en/observances/female-genital-mutilation-day>.
  - 2 Official Code of Georgia Annotated (O.C.G.A) § 17-17-5.1.
  - 3 <https://www.bbc.co.uk/news/world-47131052>.
  - 4 <https://www.un.org/en/observances/female-genital-mutilation-day>.
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