

FGM SURVIVOR'S GUIDE

— TO —

LEGAL REMEDIES

IN THE STATE OF
MAINE

DEVELOPED FOR [AHA](#) FOUNDATION

THROUGH THE PRO BONO ASSISTANCE OF

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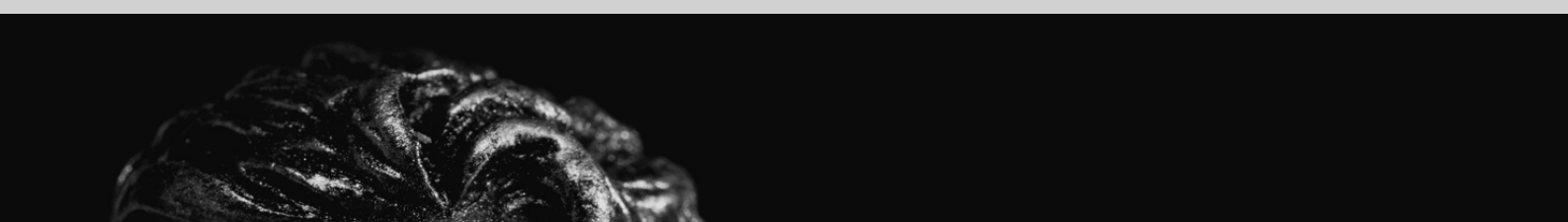
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DISCLAIMER

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 Maine 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 Maine concerning any specific legal issue. This Guide is up to date as of 18 July, 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 the State of Maine, United States of America.

In 1996, Congress passed the Federal Genital Mutilation Act, which made performing FGM on anyone under the age of 18 a felony in the United States of America. 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, which prohibits FGM on minors under federal law.

Current federal law provides federal authorities with the power to prosecute any person who performs, attempts to perform, facilitates, consents to, or transports a person under the age of 18 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 FGM survivors from this painful practice, state criminalization laws are equally necessary to provide legal recourse to FGM survivors.

Maine offers a range of legal remedies to FGM survivors through its state court system. Although there are no specific FGM criminal offenses in Maine, Maine’s criminal laws allow perpetrators of FGM to be prosecuted under general criminal law principles. In Maine, survivors of FGM cannot themselves bring the relevant criminal action (such actions are brought by the state through prosecuting attorneys), however, survivors can provide valuable assistance to the prosecuting attorneys bringing those actions. Except in specific instances discussed further below, prosecution of these crimes must start within 6 years or 3 years of the crime being committed, depending on the severity of the crime.

In addition, Maine 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 who is at least 18 years of age may commence a civil cause of action independently or through a legal representative to initiate a variety of civil causes of action, including assault and battery, false imprisonment and intentional infliction of emotional distress.¹ The civil action must be commenced within 6 years after the cause of such action occurs.

A survivor of FGM may also be eligible for compensation from the Victims Compensation Fund. In order to be eligible for compensation from the Victims Compensation Fund, the crime must be reported to law enforcement within 5 days of the occurrence or discovery of the crime or resulting injury, and the claim for compensation submitted within 3 years of the occurrence of the injury, or 60 days of the discovery of the injury, whichever is later. These restrictions may be waived for good cause, on behalf of a victim if the victim is a child, or the victim of the crime is a child and the claim is reported by an adult when the adult becomes aware of the crime and injury.

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.²

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 obstetrician-gynecologist (OB/GYN) or contact help@theahafoundation.org.



REMEDIES AVAILABLE TO SURVIVORS UNDER MAINE ANTI-FGM LAWS

Maine does not currently have laws in place that specifically protect victims of FGM and is one of 10 states in the USA that has yet to declare the practice of FGM typically upon a minor, a criminal act. However, perpetrators of FGM can be prosecuted under Maine's criminal laws. Survivors of FGM also have other legal remedies available to seek redress against their perpetrators and could be entitled to receive compensation through civil causes of action. Therefore, Maine's civil law and criminal law offer a number of different forms of justice to survivors of FGM.

While survivors of FGM cannot themselves bring criminal actions, they can provide valuable assistance to the prosecuting attorneys bringing those actions. 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 Maine specific law can be brought only by state prosecutors. However, FGM survivors may still participate in court proceedings as courts will permit the FGM victim or their legal representative to make an oral statement during the hearings. If the defendant is found guilty, 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 (the "**plaintiff**"). In the case of FGM, the plaintiff is usually the survivor while the person being sued (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.

This Guide discusses the criminal and civil options in turn.



NO CRIME SPECIFIC TO FGM

There are no specific FGM criminal offenses in the state of Maine. However, a person involved in carrying out an act of FGM on another person can be charged with the offenses set forth in Section 4 below, which are punishable based on the class in which they fall:

OFFENSE TABLE

Type of Offense ³	Penalty
Class A	Punishable by up to 30 years' incarceration and a \$50,000 fine.
Class B	Punishable by up to 10 years' incarceration and a \$20,000 fine.
Class C	The lowest level felony offense under Maine law. Punishable by up to 5 years' incarceration and a \$5,000 fine.
Class D	The most serious misdemeanor offense under Maine law. Punishable by up to 364 days incarceration and a \$2,000 fine.
Class E	Punishable by up to six months' incarceration and a \$1,000 fine.

OTHER CRIMINAL AND CIVIL CAUSES OF ACTION AVAILABLE TO SURVIVORS OF FGM IN MAINE

ADDITIONAL CRIMINAL LAWS

OFFENSES AGAINST THE PERSON

A perpetrator could be charged with the following offenses:

ASSAULT

In Maine, a person commits assault if they: (a) intentionally, knowingly or recklessly cause bodily injury or offensive physical contact to another person; or (b) have attained at least 18 years of age, and intentionally, knowingly or recklessly cause bodily injury to another person who is less than 6 years of age.⁴ The punishment will depend on the type of assault committed. Assault (a) is a Class D crime and Assault (b) is a Class C crime – both offenses are punishable as set out in the table above.

AGGRAVATED ASSAULT

A person commits aggravated assault if that person intentionally, knowingly or recklessly causes bodily injury to another person that results in serious, permanent disfigurement or loss or substantial impairment of the function of any bodily part or organ.⁵ Aggravated assault is a Class A crime, which is the most serious under Maine law and is punishable as set out in the table above.⁶

CRIMINAL THREATENING

A person commits criminal threatening if they intentionally or knowingly place another person in fear of imminent bodily injury. This is a Class C crime and is punishable as set out in the table above.⁷

RECKLESS CONDUCT

A person commits reckless conduct if they recklessly create a substantial risk of serious bodily injury to another person. This is a Class D crime and is punishable as set out in the table above.⁸

KIDNAPPING

A person commits kidnapping if they either knowingly restrain another person with the intent to inflict bodily injury upon the other person or terrorize the other person or a third person; or they knowingly restrain another person under circumstances which in fact expose the other person to risk of serious bodily injury.⁹

“Restrain” in this context means to substantially restrict the movements of another person without the other person’s consent or other lawful authority by: (a) removing the other person from the other person’s residence or place of business or from a school; (b) moving the other person a substantial distance from the vicinity where the other person is found; or (c) confining the other person for a substantial period either in the place where the restriction commences or in a place to which the other person has been moved.¹⁰

Kidnapping is a Class A crime, however, it can be reduced to Class B if the perpetrator voluntarily released the victim alive and without any serious injury.¹¹ Also, it is a defense to the prosecution of kidnapping if the victim is the perpetrator’s child – i.e. a victim’s parent cannot be prosecuted for kidnapping the victim.¹²

CRIMINAL RESTRAINT

A person commits criminal restraint if the person either:

(a) knowing the person has no right to do so, intentionally or knowingly takes, retains or entices another person who is either less than 14 years of age (this is a Class D crime); or 8 years of age (this is a Class C crime);¹³ or

(b) knowingly: (i) restrains another person (this is a Class D crime); or (ii) knowingly restrains another person who is less than 8 years of age (this is a Class C crime).¹⁴

Similar to the offense of kidnapping, it is a defense to the prosecution of criminal restraint if the victim is the perpetrator’s child – i.e. a victim’s parent cannot be prosecuted for criminal restraint.¹⁵ However, is not a defense that the victim consented to being restrained.¹⁶

SEXUAL ASSAULT

SEXUAL CONTACT

Sexual contact is defined as *“any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.”*¹⁷

A person commits sexual contact if the person intentionally subjects another to any sexual contact and:

- (a) The other person has not expressly or impliedly consented to the perpetrator's sexual contact and the perpetrator is criminally negligent with regard to whether the other person has consented to such conduct (this is a Class D crime);
- (b) The other person, who is not the perpetrator's spouse, is in fact less than 14 years of age and the perpetrator is at least 3 years older (this is a Class C crime);
- (c) The other person, who is not the perpetrator's spouse, is in fact less than 12 years of age and the perpetrator is at least 3 years older (this is a Class B crime);
- (d) The other person, who is not the perpetrator's spouse, is in fact either 14 or 15 years of age and the actor is at least 10 years older than the other person (this is a Class D crime);
- (e) The other person suffers from a mental disability that is reasonably apparent or known to the perpetrator that in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the other person has the right to deny or withdraw consent (this is a Class D crime);
- (f) The other person, who is not the perpetrator's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the perpetrator has supervisory or disciplinary authority over the other person (this is a Class D crime);

(g) The other person is in fact less than 18 years of age and the perpetrator is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person (this is a Class C crime);or

(h) The other person submits as a result of compulsion (this is a Class C crime); here, “*compulsion*” means the use of physical force, a threat to use physical force or a combination thereof that makes a person unable to physically repel the actor or produces in that person a reasonable fear that death, serious bodily injury or kidnapping might be imminently inflicted upon that person or another human being.^{18 19}

UNLAWFUL SEXUAL TOUCHING

A person commits unlawful sexual touching if the person intentionally subjects another person to any sexual touching if:

(a) The other person has not expressly or impliedly consented to the sexual touching and the perpetrator is criminally negligent with regard to whether the other person has consented to such conduct (this is a Class D crime);

(b) The other person, who is not the perpetrator’s spouse, is in fact less than 14 years of age and the actor is at least 5 years older (this is a Class D crime);

(c) The other person suffers from a mental disability that is reasonably apparent or known to the perpetrator that in fact renders the other person substantially incapable of appraising the nature of the touching involved or of understanding that the other person has the right to deny or withdraw consent (this is a Class D crime);

(d) The other person, who is not the perpetrator’s spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person (this is a Class D crime);

(e) The other person is in fact less than 18 years of age and the perpetrator is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person (this is a Class D crime); or

(f) The other person submits as a result of compulsion (see (B)(i)(h) above) (this is a Class D crime).²⁰

OFFENSES AGAINST THE FAMILY

ENDANGERING THE WELFARE OF A CHILD

A person commits the offense of endangering the welfare of a child if:

(a) Being a parent, foster parent, guardian or other person responsible for the long-term general care and welfare of a child, recklessly fails to take reasonable measures to protect the child from the risk of further bodily injury after knowing that the child had, in fact, sustained serious bodily injury or bodily injury under circumstances posing a substantial risk of serious bodily injury; and that such bodily injury was, in fact, caused by the unlawful use of physical force by another person; or

(b) otherwise recklessly endangers the health, safety or welfare of the child by violating a duty of care or protection.

Endangering the welfare of a child is a Class D crime.²¹

ENDANGERING THE WELFARE OF A DEPENDENT PERSON

A person is guilty of endangering the welfare of a dependent²² person if they either recklessly endanger²³ the health, safety or mental welfare of a dependent person (this is a Class D crime); or intentionally or knowingly endanger the health, safety or mental welfare of a dependent person (this is a Class C crime).²⁴

OFFENSES OF GENERAL APPLICABILITY

CRIMINAL CONSPIRACY

A person is guilty of criminal conspiracy if they, with the intention to commit a crime, agree with one or more persons to engage in conduct which will bring the

crime about. The person's criminal liability for conspiracy is based on the most serious crime the person aimed to achieve through the conspiracy. If the most serious crime contemplated was a:

- (a) Class A crime, the person is be liable for a Class B crime;
- (b) Class B crime, the person is liable for a Class C crime;
- (c) Class C crime, the person is liable for a Class D crime; or
- (d) Class D crime, the person is liable for a Class D crime.

A person cannot be convicted of criminal conspiracy unless it is proven that the person, or a person with whom they conspired, took a "substantial step" in the furtherance of the crime. A substantial step is any conduct which goes beyond mere planning and firmly indicates that person's intent to complete the crime. Words alone cannot establish a substantial step.²⁵

CRIMINAL ATTEMPT

A person is guilty of criminal attempt if, the person intends to commit a crime and takes a substantial step toward completing the crime, but for reasons not intended by the person, the intended crime does not occur. The person's criminal liability for criminal attempt is based on the most serious crime the person attempted. If the most serious crime attempted was a:

- (a) Class A crime, the person is liable for a Class B crime;
- (b) Class B crime, the person is liable for a Class C crime;
- (c) Class C crime, the person is liable for a Class D crime; or
- (d) Class D crime, the person is liable for a Class E crime.

As outlined above, a substantial step is any conduct which goes beyond mere planning and firmly indicates that person's intent to complete the crime. Words alone cannot establish a substantial step.²⁶

It is not a defense to a prosecution that it was impossible to commit the crime that the person attempted, provided that it would have been committed had the factual and legal circumstances been as the person believed them to be.²⁷

Where a person engages in conduct intended to aid another in committing a crime, and where the person's intent that the crime be committed is established, the person is guilty of criminal attempt, even if the other person is not guilty of committing or attempting the crime.²⁸

CRIMINAL SOLICITATION

A person is guilty of criminal solicitation if they, with the intent to commit a crime, and under circumstances that the person believes make it probable that the crime will occur, commands or attempts to induce another person to commit either a:

- (a) Class A crime (the person would be liable for a Class B crime); or
- (b) Class B crime (the person would be liable for a Class C crime).

It is not a defense to prosecution that the person solicited cannot be guilty of the crime because of lack of responsibility and/or culpability, immaturity, or any other incapacity or defense.²⁹

INTERFERENCE WITH CONSTITUTIONAL AND CIVIL RIGHTS

*"A person may not, by force or threat of force, intentionally injure, intimidate or interfere with, or intentionally attempt to injure, intimidate or interfere with or intentionally oppress or threaten any other person in the free exercise or enjoyment of any right or privilege, secured to that person by the Constitution of Maine or laws of the State or by the United States Constitution or laws of the United States."*³⁰

"Intentionally", as used above, is defined as a person being aware that their conduct will result in them committing an offense against another person and they believe that the circumstances for that to happen exist.³¹

An individual who is convicted of interfering with the constitutional and civil rights of another person is guilty of a Class D offense.³² The offense is punishable as set out in the table above.

STATUTES OF LIMITATION

The prosecution of Class A, Class B and Class C crimes must be commenced within 6 years after the crime is committed. The prosecution of Class D or Class E crimes must be commenced within 3 years after the crime is committed.³³

Exceptions to the statutes of limitations:

1) If the victim was less than 16 years old at the time of the crime, a prosecution for unlawful sexual contact, sexual abuse of a minor, or gross sexual assault may be commenced at any time.³⁴

2) A prosecution for a Class A, Class B or Class C crime involving unlawful sexual contact or gross sexual assault extends the statutes of limitations to 20 years after the crime was committed.³⁵

The period of limitation shall not run in the following circumstances:

(a) During any time when the accused is absent from the state of Maine, but in no event shall this provision extend the period of limitation otherwise applicable by more than 5 years;

(b) During any time when a prosecution against the accused for the same crime based on the same conduct is pending in the state of Maine; or

(c) During any time when a prosecution against the accused for the corresponding juvenile crime based on the same conduct is pending in the Juvenile Court; “*pending*” includes any appeal period and, if an appeal is taken, any period pending its final disposition.³⁶

Furthermore, if a prosecution is brought within the applicable statute of limitations period but is dismissed for any error, defect, insufficiency or irregularity, a new prosecution for the same crime may be commenced within 6 months of dismissal, or during the next session of grand jury, whichever occurs later. This rule applies even if the period of limitation expired at the time of the dismissal.³⁷

CIVIL CAUSES OF ACTION

Maine does not have a specific civil cause of action related to FGM. Additionally, there is no civil negligence cause of action for a minor against their parents for bodily injury, as parents are afforded protection from negligence claims under the doctrine of parental immunity, except where the minor is injured when a passenger in their parent's vehicle.³⁸ Although there are some cases that suggest that the doctrine of parental immunity may be abrogated in other contexts, there is no established negligence cause of action for a minor against her parents for bodily injury from FGM in Maine.³⁹ However, the following civil causes of action are available under common law to survivors of FGM:

ASSAULT AND BATTERY

PHYSICAL CONTACT

A claim for civil assault and battery requires physical contact.⁴⁰ Specifically, the defendant must have made physical contact with the plaintiff for the plaintiff to bring a civil assault and battery claim against the defendant. While the Supreme Court of Maine has not explicitly said so, case law suggests that the level of physical contact does not have to be substantial for there to be a claim as even a slight touch of another person in a wanton, willful, and insulting manner is considered an offense.⁴¹

DEFENDANT'S INTENT

A claimant is not required to establish a defendant's bad intention to bring a claim for civil assault and battery as the motive or feelings for the action is irrelevant. A claimant suing for civil assault and battery needs only establish that the defendant acted with substantial certainty regarding the consequences of that defendant's action. Hence, where a defendant acting with a hostile or offensive intent lays a hand on another person, a battery has been committed.⁴²

OFFER OR ATTEMPT TO COMMIT BATTERY

Where a person acts in a manner that may embarrass and cause distress to another person, if such act is not accompanied by some form of physical contact, it will not amount to an assault (see above).⁴³ Similarly,⁴³ although insulting language or conduct of the same may aggravate an assault, they do not constitute an assault without there being any form of physical contact.⁴⁴

FALSE IMPRISONMENT

In an action for false imprisonment, the plaintiff must show that they were physically restrained by the defendant, but not necessarily that force was used upon them.⁴⁵ Mere threats to imprison another person will not constitute false imprisonment – there must be actual physical restraint.⁴⁶

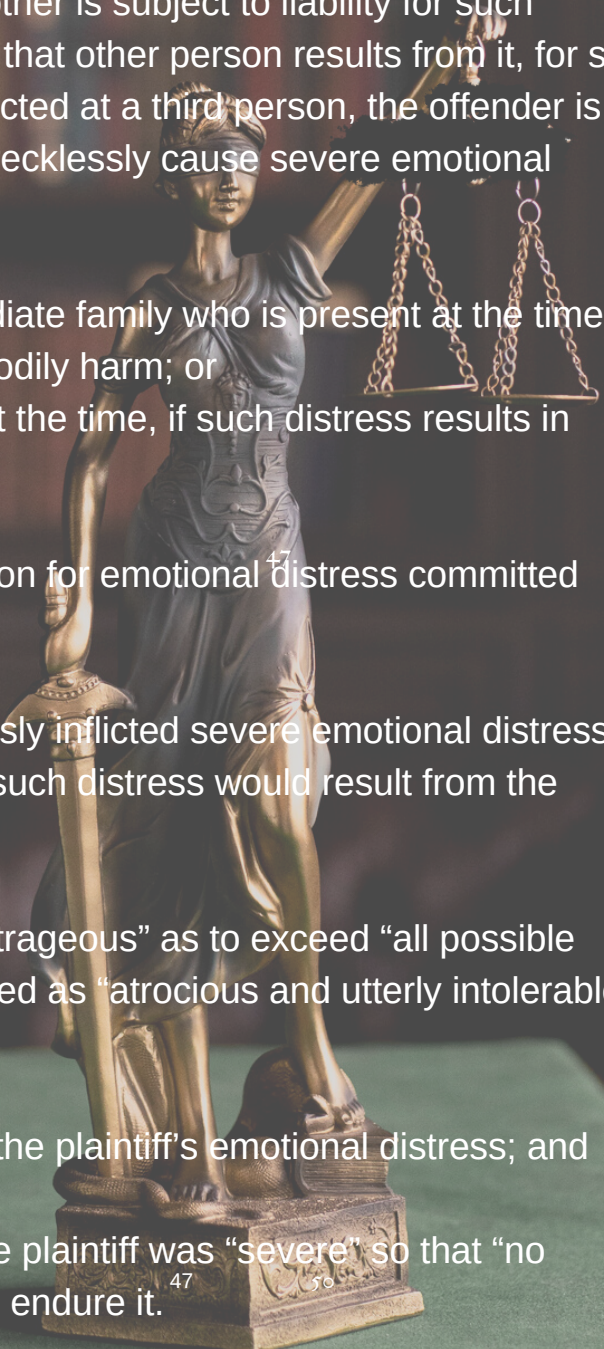
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

A person who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to that other person results from it, for such bodily harm. Where such conduct is directed at a third person, the offender is subject to liability if they intentionally or recklessly cause severe emotional distress:

- (a) to a member of such person's immediate family who is present at the time, whether or not such distress results in bodily harm; or
- (b) to any other person who is present at the time, if such distress results in bodily harm.

A plaintiff may be entitled to compensation for emotional distress committed against them if they can establish that:

- (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from the defendant's conduct;
- (2) the conduct was so "extreme and outrageous" as to exceed "all possible bounds of decency" and must be regarded as "atrocious and utterly intolerable in a civilized community;"
- (3) the actions of the defendant caused the plaintiff's emotional distress; and
- (4) the emotional distress suffered by the plaintiff was "severe" so that "no reasonable person could be expected to endure it."⁴⁷



RIGHTS OF ALL SURVIVORS UNDER THE MAINE CRIMINAL JUSTICE SYSTEM

MAINE REVISED STATUTES TITLE 30-A (ME. REV. STAT. ANN. TITLE 30-A)

§ 460. Victim and Witness Support

Each county is encouraged (but not obliged) to support a victim and witness of crime by 1) establishing a victim and witness support program, which will be administered by the respective district attorney, and 2) hire, train, and provide support staff to the person(s) in charge of carrying out the victim and witness support program.

MAINE REVISED STATUTES TITLE 17-A (ME. REV. STAT. ANN. TITLE 17-A)

§ 2102. Notification

Victims should be informed by the attorney for the State of their rights, including the right to comment on a plea agreement (of which the details, including any deferred disposition shall be disclosed to the victim before it is submitted to the court) and the right to comment on any proposed early termination of probation, administrative release or conversion of probation to administrative release.

The attorney for the state shall also inform the victim of any proposed action (e.g. dismissal or filing of an indictment, information or complaint) for the case prior to taking such action.

In addition, the time and place of the trial and sentencing will be disclosed to the victim and the victim has the right to participate at the sentencing hearing in relation to the termination of probation and final disposition of the charges.

§ 2104. Sentencing Procedure

If the victim wishes to participate at the sentencing trial, they can either make an oral statement at the court or submit a written statement either directly or through

the attorney for the state or alternatively, the victim can do the above through an attorney of their choice. The court will take into account such statement when determining the sentence.

As a rule of thumb, only the victim will be allowed to participate at the sentencing trial. Should any family member, close friend or community member wish to provide any statement, the court will decide whether it is allowed.

§ 2108. Confidentiality of Victim Record

Any information relating to the victim's address or location will be kept confidential and will only be disclosed to the relevant agents of the state, criminal justice agent, a certified domestic violence intervention program, domestic violence center, and any other person or agents that the victim requests to have such information shared with. They can only use this information to carry out their respective duties.

Notwithstanding the above, a bail commissioner, judge, justice, court clerk, law enforcement officer or attorney for the state may disclose a victim's current address or location to the defendant only 1) as part of a bail condition restricting contact with the victim or a court order restricting the same, and 2) if the defendant already knows the victim's current address or location. However, if the attorney for the state believes that the disclosure may compromise the safety of the victim, the victim's address or location will not be disclosed to anyone.

§ 2109. Confidentiality of Certain Communications by Victim

The communications between a victim and a sexual assault counsellor are protected from disclosure. Communications between a victim and an advocate, victim witness advocate, or victim witness coordinator will not be disclosed to anyone, including the court, unless required by law or the court. An exception to the non-disclosure rule may apply in the event that the victim is incapable of consenting to disclosure, is deceased, or if disclosure of the communication is required for a law enforcement investigation or criminal proceeding related to the victim's death or incapacitation. Furthermore, communication between the victim and any victim witness advocate or victim witness coordinator can be made available to the district attorney, attorney general or the United States Attorney.

Evidence of an exculpatory nature (i.e. evidence favorable to the defendant) will also be disclosed to the defendants pursuant to the Maine Rules of Unified Criminal Procedure, Rule 16. tit. 17-A, § 2109(3); tit. 16, § 53-C(3).

MAINE REVISED STATUTES TITLE 5 (ME. REV. STAT. ANN. TITLE 5)

§ 3360-H. Victims' Compensation Fund

A Victims' Compensation Fund (the "Fund") is available to provide eligible individuals with financial resources to cope with the impact of certain crimes. The relevant eligibility criteria is outlined in section 3360-B below. The Fund is funded by private donations, federal funds and state funds.

§ 3360-B. Victims' Compensation Eligibility

An individual may be eligible for compensation from the Fund if the individual (1) suffered personal injury: (i) as a direct result of an eligible crime specified in section 3360,⁴⁸ or (ii) which resulted from criminal conduct in violation of federal law; (2) was sexually assaulted; (3) is a family or household member ("FOHM") of a victim who died as a direct result of an eligible crime if the FOHM was financially dependent on the deceased or the deceased regularly and substantially contributed to the support of the surviving FOHM; (4) is a FOHM of a victim who died or suffered catastrophic injury as a direct result of an eligible crime, and the FOHM witnessed the crime; and (5) is a FOHM of a sexual assault victim and the victim incurred unreimbursed mental health treatment expenses as a direct result of the eligible crime.

As a general matter, an individual is eligible for compensation only if the underlying crime occurred within the State. However, an exception applies where a resident of Maine is a victim of an eligible crime which occurred in another state, and that other state does not make available to the Maine resident that state's victim compensation fund, if one exists.

§ 3360-C. Victims' Compensation Requirements and Exclusions

To be eligible for compensation from the Fund the following requirements must be met:

1. The eligible crime must be reported to a law enforcement officer within 5 days of the occurrence or discovery of the crime, or of the resulting injury; and
2. A claim must be submitted to the Fund within 3 years of the occurrence of the injury or compensable loss, or within 60 days of the discovery of the injury or compensable loss, whichever is later.

Note: The above restrictions may be waived either for a good cause or if the victim is a child and the crime and claim are properly reported to law enforcement officers and the Fund by an adult when the adult becomes aware of the crime and of the compensable injury.

Compensation may not be paid:

1. If the claimant does not fully cooperate with the Fund's requirements or the reasonable requests of law enforcement officers or prosecution authorities; or
2. To the perpetrator of the crime that caused or contributed to the injury or death for which compensation is sought, even if the perpetrator is a family member.

PRACTICAL PROTECTIVE STEPS

FGM can cause physical and mental health problems that continue to affect survivors later in life, including, but not limited to, irregular periods, bladder problems, recurrent infections and natural child-birth challenges.⁴⁹ In addition, FGM is often followed by early marriage at the detriment of the survivor's education and career.⁵⁰

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 non-profit organizations 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@theahafoundation.org

REFERENCES

¹ Note that the age of majority in Maine is 18 years. Under Maine Rules of Civil Procedure 17(b), a minor must sue and defend himself or herself through a guardian, conservator, parent, “next friend,” or guardian appointed by a court. However, an emancipated minor (a 16 or 17-year-old minor whose petition to be is legally freed from control by their parents or guardians has been granted by the court) can sue and be sued in court in civil cases, including in Protection from Abuse and Protection from Harassment cases.

² <https://www.un.org/en/observances/female-genital-mutilation-day>.

³ Me. Rev. Stat. Ann. tit. 17, § 2932 and

https://www.maine.gov/ag/crime/criminal_justice_system.shtml#:~:text=Maine%20no%20longer%20uses%20these,incarceration%20and%20a%20%245%2C000%20fine(last visited June 6, 2022).

⁴ Me. Rev. Stat. Ann. tit. 17-A, § 207.

⁵ Me. Rev. Stat. Ann. tit. 17-A, § 208.

⁶ https://www.maine.gov/ag/crime/criminal_justice_system.shtml#:~:text=Maine%20no%20longer%20uses%20these,incarceration%20and%20a%20%245%2C000%20fine (last visited June 6, 2022).

⁷ Me. Rev. Stat. Ann. tit. 17-A, § 208

⁸ Me. Rev. Stat. Ann. tit. 17-A, §211.

⁹ Me. Rev. Stat. Ann. tit. 17-A, §301(1).

¹⁰ Me. Rev. Stat. Ann. tit. 17-A, § 301(2).

¹¹ Me. Rev. Stat. Ann. tit. 17-A, § 301(3).

¹² Me. Rev. Stat. Ann. tit. 17-A, § 301(2-B).

¹³ Me. Rev. Stat. Ann. tit. 17-A, § 302(1).

¹⁴ Me. Rev. Stat. Ann. tit. 17-A, § 302(1).

¹⁵ Me. Rev. Stat. Ann. tit. 17-A, § 302(2).

¹⁶ *Id.*

¹⁷ Me. Rev. Stat. Ann. tit. 17-A, § 251(1)(D).

¹⁸ Me. Rev. Stat. Ann. tit. 17-A, § 251(1)(E).

¹⁹ Me. Rev. Stat. Ann. tit. 17-A § 255-A.

²⁰ Me. Rev. Stat. Ann. tit. 17-A, § 260.

²¹ Me. Rev. Stat. Ann. tit. 17-A, § 554(1).

²² Me. Rev. Stat. Ann. tit. 17-A, § 555(2)(B). “*Dependent person*” means a person, regardless of where that person resides, who is wholly or partially dependent upon one or more other persons for care or support because the person suffers from a significant limitation in mobility, vision, hearing or mental functioning or is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect

²³ Me. Rev. Stat. Ann. tit. 17-A, § 555(2)(A). “*Endanger*” includes a failure to act only when the defendant has a legal duty to protect the health, safety or mental welfare of the dependent person. A legal duty could be inferred if the person assumed responsibility in whole or part for the dependent person

²⁴ Me. Rev. Stat. Ann. tit. 17-A, § 555(1).

²⁵ Me. Rev. Stat. Ann. tit. 17-A, § 151(4).

- 26 Me. Rev. Stat. Ann. tit. 17-A, § 152.
27 Me. Rev. Stat. Ann. tit. 17-A, § 152.
28 Me. Rev. Stat. Ann. tit. 17-A, § 152.
29 Me. Rev. Stat. Ann. tit. 17-A, § 153.
30 Me. Rev. Stat. Ann. tit. 17-A, § 2931.
31 Me. Rev. Stat. Ann. tit. 17-A, § 35(1)(A) and §35(1)(B).
32 Me. Rev. Stat. Ann. tit. 17-A, § 2932.
33 Me. Rev. Stat. Ann. tit. 17-A, § 8(2).
34 Me. Rev. Stat. Ann. tit. 17-A § 8(1).
35 Me. Rev. Stat. Ann. tit. 17-A § 8(2-A).
36 Me. Rev. Stat. Ann. tit. 17-A, § 8(3).
37 Me. Rev. Stat. Ann. tit. 17-A, § 8(4).
38 *Downs v. Poulin*, 216 A.2d 29, 34 (Me. 1966); *Black v. Solmitz*, 409 A.2d 634, 636 (Me. 1979) (holding that the doctrine of parental immunity does not apply where a child under the age of 18 is injured when a passenger in their parent's car – in which case, they may bring a negligence action against their parent).
39 See e.g., *Purwin v. Robertson Enters., Inc.*, 506 A.2d 1152 (Me.1986) (declining that a third-party action for contribution is barred by the parental immunity doctrine); see also *Payeur v. Higgins*, No. CV-93-451, 1995 WL 18036654 (Me.Super. Jan. 09, 1995) (finding that the doctrine of parental immunity does not necessarily shield a parent from liability for his or her negligent act if the act constitutes a tort against the child).
40 *Estate of Berthiaume v. Pratt*, 365 A.2d 792, 793-94 (Me. 1976).
41 *Wadsworth v. Treat*, 43 Me. 163, 165 (1857). See also *Estate of Berthiaume*, 365 A.2d at 793-94 (holding that a doctor's raising a former patient's head in order to photograph him was enough to establish a claim for assault and battery).
42 *Pattershall v. Jenness*, 485 A.2d 980, 984 (Me. 1984) (citing RESTATEMENT (SECOND) OF TORTS § 8A (AM. L. INST. 1965)).
43 *Stearns v. Sampson*, 59 Me. 568, 575 (1871).
44 *Stearns v. Sampson*, 59 Me. 568, 576 (1871).
45 *Whittaker v. Sanford*, 85 A. 399 (Me. 1912).
46 *Knowlton v. Ross*, 95 A. 281, 283 (Me. 1915).
47 RESTATEMENT (SECOND) OF TORTS § 46 (AM. L. INST. 1965)).
48 Eligible crimes include, but are not limited to: (1) assault; (2) domestic violence assault; (3) aggravated assault; (4) elevated aggravated assault; (5) domestic violence aggravated assault; (6) domestic violence elevated aggravated assault; (7) criminal threatening; (8) domestic violence criminal threatening; (9) reckless conduct; (10) domestic violence reckless conduct; (11) aggravated reckless conduct; and (12) kidnapping.
49 <https://www.bbc.co.uk/news/world-47131052>.
50 <https://www.un.org/en/observances/female-genital-mutilation-day>.