

# FGM SURVIVOR'S GUIDE

TO

# LEGAL REMEDIES

## IN THE STATE OF NORTH CAROLINA

DEVELOPED FOR [AHA](#) FOUNDATION

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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 North Carolina 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 North Carolina concerning any specific legal issue. This Guide is up to date as of August 25, 2023.



# 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 North Carolina, 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 Federal Genital Mutilation Act was unconstitutional. While the Department of Justice did not appeal the Michigan court’s decision, President Trump signed the STOP FGM Act of 2020 in 2021 to reaffirm the 1996 federal 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 knowingly performs, attempts to perform, facilitates, consents to or transports a person for the purpose of FGM. Violation of federal 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.

North Carolina offers a range of legal remedies to survivors of FGM through its state criminal court system, including specific FGM laws making it a felony for any person to perpetrate or consent to FGM on a child under 18, or knowingly to remove a child under 18 from North Carolina for the purpose of FGM. Importantly, the North Carolina law does not accept any defense that the FGM was required as a matter of custom or ritual, or that the minor consented to the FGM.

Depending on the facts and circumstances of a particular case, perpetrators of FGM can also be prosecuted under general criminal laws including assault, assault and battery, sexual abuse, simple affray, child abuse, kidnapping or felonious restraint. Some of these actions are felonies and others are misdemeanors. Although survivors of FGM in North Carolina cannot themselves bring the relevant criminal action, they can still provide valuable assistance to the state’s prosecuting attorneys bringing those actions.

There is generally no time-bar to criminal prosecution for a felony in North Carolina. Some FGM-related misdemeanors have a 10-year statute of limitations.

In addition to the criminal remedies, North Carolina offers FGM survivors legal remedies through its state civil court system. Although there is no FGM-specific civil cause of action, survivors of FGM, themselves, can bring a number of civil claims, including assault, battery, sexual battery, false imprisonment and intentional or negligent infliction of emotional distress.

Civil actions are generally time-barred and most actions must be commenced within three years of the relevant criminal offense, although this period does not start to run in the case of a minor until they turn 18. If the victim was under the age of 18 at the time of the act, they may bring a cause of action for sexual battery at any time prior to turning 28. The time period for the commencement of actions for child sex abuse is 10 years, and a child may bring a claim against their parent for FGM suffered as a result of the parent's willful and malicious conduct.

Finally, under North Carolina state law, victims of crimes, including FGM, are entitled to certain rights and protections. These include rights to (a) be informed of all stages of the criminal process and of victim's rights, (b) be present at all public proceedings, (c) be heard in public proceedings, (d) speak with the prosecutor, (e) restitution from the defendant, (f) to information on victim's services and the criminal injuries compensation fund and (g) prior notice about the sentencing and release of a defendant, including the right to express views and concerns relating to the release of a defendant.

## 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.<sup>1</sup>

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](mailto:help@theahafoundation.org).





# BACKGROUND OF REMEDIES AVAILABLE TO SURVIVORS UNDER NORTH CAROLINA ANTI-FGM LAWS

North Carolina's criminal and civil laws offer survivors of FGM a number of different legal pathways to pursue justice. Importantly, North Carolina is one of 41 states in the United States that have specifically criminalized the practice of FGM upon minors.

A criminal action is a lawsuit brought by a prosecutor, who is an employee of the federal, state, or local government. Accordingly, criminal prosecutions against perpetrators of FGM under North Carolina-specific law can be brought only by state prosecutors. And while survivors of FGM cannot themselves bring criminal actions, they can provide valuable assistance to the prosecutors bringing those actions. For example, FGM survivors may participate in court proceedings, as most courts will permit FGM victims or their legal representatives to make oral statements during court proceedings. If the defendant is found guilty in a criminal case, they may be punished with fines, time in prison, or both.

A civil lawsuit is brought by a plaintiff. In FGM cases, the person that brings a civil claim (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.

Because the same wrongful conduct may give rise to other criminal charges and civil claims, survivors should always consider pursuing both criminal and civil forms of relief. This Guide discusses the criminal and civil options in turn.



# CRIMINAL AND CIVIL CAUSES OF ACTION AVAILABLE TO SURVIVORS OF FGM IN NORTH CAROLINA

## CRIMINAL LAWS AND STATUTES

North Carolina classifies female genital mutilation ("FGM") as a Class C felony.<sup>2</sup> In addition to being prosecuted under the Anti-FGM law, perpetrators of FGM can also be prosecuted for the following felonies under North Carolina law: misdemeanor assault and battery, child abuse, kidnapping, felonious restraint, sexual battery, and attempt to commit any of the preceding crimes.

Statute of limitations: North Carolina has "no statute of limitations [that] bars the prosecution of a felony."<sup>3</sup> There is, however, a 10-year time-bar for the following misdemeanors: duty to report abuse, sexual battery, child abuse, and failure to report crimes against juveniles.<sup>4</sup>

### **A) Female genital mutilation of a child. — N.C. GEN. STAT. ANN. § 14-28.1**

The General Assembly of North Carolina has found that FGM is a crime that causes a long-lasting impact on the victim's quality of life and that the practice of FGM has been recognized internationally as a violation of the human rights of girls and women.<sup>5</sup>

The anti-FGM statute recognizes three different forms of liability; all are Class C Felonies:

(i) Mutilation - A person knowingly and unlawfully circumcises, excises, or infibulates the whole or any part of the labia majora, labia minora, or clitoris of a child less than 18 years of age;

(ii) Consent to Mutilation - A parent, or a person providing care to or supervision of a child less than 18 years of age, who consents to or permits the unlawful circumcision, excision, or infibulation, in whole or in any part, of the labia majora, labia minora, or clitoris of the child; and

(iii) Removal for Mutilation - A parent, or a person providing care to or supervision of a child less than 18 years of age, who knowingly removes or permits the removal of the child from the State for the purpose of having the child's labia majora, labia minora, or clitoris circumcised, excised, or infibulated.<sup>6</sup>

A surgical operation is not a violation of this section if it is necessary to the health of the person on whom it is performed or where it is performed for medical purposes connected with labor or birth by a person licensed (or in training to be licensed) in North Carolina as a medical practitioner/certified nurse midwife.<sup>7</sup>

It is not a defense that the person on whom the circumcision, excision, or infibulation is performed, or any other person, believes that the circumcision, excision, or infibulation is required as a matter of custom or ritual, or that the person on whom it is performed consented to it.<sup>8</sup>

### **B) Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments. — N.C. GEN. STAT. ANN. § 14-33**

Simple assault or a simple assault and battery is a Class 2 misdemeanor.



There is no statutory definition of “assault” in North Carolina, and the crime of assault is governed by common-law rules.<sup>9</sup>

The offense of assault or assault and battery is a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, there is, among others: serious injury to another person or use of a deadly weapon;<sup>10</sup> assaults to a female (including pregnant women); or assaults to a child under the age of 12 years.

### C) Child abuse a felony. — N.C. GEN. STAT. ANN. § 14-318.4

The following chart describes the felony of child abuse, and its classification:

| A PARENT OR ANY OTHER PERSON PROVIDING CARE TO OR SUPERVISION OF A CHILD LESS THAN 16 YEARS OF AGE WHO:  | FELONY   |
|--|----------|
| intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child. <sup>11</sup>  | Class D  |
| commits, permits, or encourages any act of prostitution with or by the child. <sup>12</sup>  | Class D  |
| commits or allows the commission of any sexual act upon the child. <sup>13</sup>   | Class D  |
| intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child. <sup>14</sup> | Class B2 |
| shows a reckless disregard for human life, if the act or omission results in serious bodily injury to the child. <sup>15</sup>   | Class E  |
| shows a reckless disregard for human life, if the act or omission results in serious physical injury to the child. <sup>16</sup>   | Class G  |

### D) Kidnapping. — N.C. GEN. STAT. ANN. § 14-39

Any person who unlawfully confines, restrains, or removes from one place to another, any other person 16 years of age or over without the consent of such person, or any other person under the age of 16 years without the consent of a parent or legal custodian of such person, shall be guilty of kidnapping if such confinement, restraint or removal is for the purpose of ransom or holding hostage, facilitating a felony, doing serious bodily harm, involuntary servitude, trafficking, or sexual servitude.<sup>17</sup>

There are two degrees of kidnapping: (i) if the person kidnapped either was not released by the defendant in a safe place or had been seriously injured or sexually assaulted, the offense is kidnapping in the first degree and is punishable as a Class C felony; and (ii) if the person kidnapped was released in a safe place by the defendant and had not been seriously injured or sexually assaulted, the offense is kidnapping in the second degree and is punishable as a Class E felony.<sup>18</sup>

### E) Felonious restraint. — N.C. GEN. STAT. ANN. § 14-43.3

A person commits the offense of felonious restraint if they unlawfully restrain another person without that person’s consent, or the consent of the person’s parent or legal custodian if the person is less than 16 years old, and moves the person from the place of the initial restraint by transporting them in a motor vehicle or other conveyance.<sup>19</sup> Violation of this section is a Class F felony. Felonious restraint is considered a lesser included offense of kidnapping.<sup>20</sup>

### F) Attempt and conspiracy; penalties. — N.C. GEN. STAT. § ANN. 90-98

Any person who attempts or conspires to commit any offense is guilty of an offense that is the same class as the underlying offense which was attempted or conspired about and is punishable as specified for that class of offense and prior record.<sup>21</sup>



**G) Statute of limitations for misdemeanors. — N.C. GEN. STAT. ANN. § 15-1**

Prosecution of misdemeanors must commence legal action within two years of occurrence for crimes of deceit and malicious mischief, or petit larceny where the value of the property does not exceed five dollars (\$5.00), and all misdemeanors except malicious misdemeanors. However, where any such legal action is stopped because a pleading is defective (i.e., it fails to allege an essential element of the crime), the prosecution can bring a new cause of action within a year of the date the previous claim was stopped.<sup>22</sup>

**H) Duty to report abuse, neglect, dependency, or death due to maltreatment. — N.C. GEN. STAT. ANN. § 7B-301**

If a person or institution has cause to suspect that any juvenile is abused, neglected, or dependent, or has died as the result of maltreatment, they must report the same to the director of the department of social services in the county where the juvenile resides or is found.<sup>23</sup> A person or institution commits a Class 1 misdemeanor if they knowingly or wantonly fail to report the circumstances, or knowingly or wantonly prevent another person from reporting the same.

**I) Sexual battery. — N.C. GEN. STAT. ANN. § 14-27.33**

A person is guilty of sexual battery, which is a Class A1 misdemeanor, if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person: (1) by force and against the will of the other person; or (2) who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know of the same.<sup>24</sup>

**J) Child abuse a misdemeanor. — N.C. GEN. STAT. ANN. § 14-318.2**

A person is guilty of child abuse, which is a Class A1 misdemeanor, if any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means. This offense is additional to any other civil and criminal provisions.<sup>25</sup>

**K) Failure to report crimes against juveniles; penalty. — N.C. GEN. STAT. ANN. § 14-318.6**

Any person 18 years of age or older who knows or should have reasonably known that a juvenile has been or is the victim of a violent offense,<sup>26</sup> sexual offense,<sup>27</sup> or misdemeanor child abuse under North Carolina General Statutes Section 14-318.2 shall immediately report the case of that juvenile to the appropriate local law enforcement agency in the county where the juvenile resides or is found. Any such person who willfully fails to report or knowingly or willfully prevents another person from reporting the same is guilty of a Class 1 misdemeanor.<sup>28</sup>

The identity of a person making a report pursuant to this section must be protected and only revealed as provided in North Carolina General Statutes Section 132-1.4(c)(4).<sup>29</sup>



## CIVIL CAUSES OF ACTION

North Carolina does not have a FGM-specific civil cause of action. However, FGM survivors can pursue the following civil causes of action through the state courts: assault, battery, false imprisonment, and intentional and negligent infliction of emotional distress, each discussed in detail further below. Notably, an FGM survivor can pursue these civil causes of action regardless of whether the prosecutor criminally charges against the perpetrator or whether the perpetrator is found guilty of those charges.

### A) Assault

Assault in North Carolina, is defined as a threat or attempt of violence to another person without striking that person.<sup>30</sup> As such, an assault requires an overt act or attempt, or the unequivocal appearance of an attempt, with force and violence, to do some physical injury to the person of another person.<sup>31</sup> A mere threat of future harm is not an assault.<sup>32</sup> The display of force or threat of violence must cause a reasonable apprehension of immediate bodily harm.<sup>33</sup>

A victim of assault is entitled to recover punitive damages in cases where the assault is accompanied by an element of aggravation such as malice. Malice means that the defendant was triggered or incited by a sense of personal ill will towards the victim.<sup>34</sup>

Legal action must be commenced within three years from the occurrence of the assault,<sup>35</sup> but victims under the age of 18 have three years, after they turn 18, to bring such action.<sup>36</sup>

### B) Battery

Battery is defined as an intentional, offensive, or harmful touching of another person without consent.<sup>37</sup> The victim does not have to prove they suffered actual damage in order to sue for battery.<sup>38</sup>

As with assault, a battery victim is entitled to recover punitive damages in cases of malice.<sup>39</sup> Legal action must be commenced within three years from the occurrence of the offense or from the time the victim turns 18, if they were under 18 at the time of occurrence.<sup>40</sup>

### C) Sexual Battery

If a person engages in sexual contact with another person for the purpose of sexual arousal, sexual gratification or sexual abuse by force and against the will of that other person, that person will be guilty of sexual battery.<sup>41</sup> Sexual battery is also committed if the act is done towards a person who has a mental disability or who is mentally incapacitated, and the person performing the act knows or should reasonably know that the other person has a mental disability or is mentally incapacitated or physically helpless.<sup>42</sup> However, sexual battery does not include an act committed for a genuine medical purpose.<sup>43</sup>

As with assault and battery, legal action must be commenced within three years from the occurrence of the offense, or, if the victim was under the age of 18 at the time of the act, they may bring a cause of action for sexual battery at any time prior to turning 28.<sup>44</sup>

### D) False Imprisonment

A person will be guilty of false imprisonment if they illegally restrain another person against that other person's will<sup>45</sup> by words or acts. The protected interest is the freedom from improper restraint<sup>46</sup> and thus, it is not necessary that a victim is actually confined, assaulted, or touched.<sup>47</sup> The elements of false imprisonment are (1) illegal restraint of another person, (2) by force or implied threat of force, and (3) against that other person's will.<sup>48</sup> The person restrained need only be aware that the restraint existed, as it is not the length of time for which they were restrained that matters, but that there was sufficient time for the victim to recognize that the restraint existed.<sup>49</sup>



## E) Intentional Infliction of Emotional Distress

Intentional infliction of emotional distress is “an act which is done with the intention of causing emotional distress or with the reckless indifference to the likelihood that emotional distress may result.”<sup>50</sup> The elements of intentional infliction of emotional distress are (1) extreme and outrageous conduct, (2) which is intended to cause and does cause, and (3) severe emotional distress to another. The offender shall only be liable where the offender’s conduct has been so outrageous and extreme that it goes beyond all possible bounds of decency and can be regarded as atrocious in a civilized community.<sup>51</sup> This may arise from the offender’s knowledge that the other person is peculiarly susceptible to emotional distress. Further, the conduct may be categorized as heartless, flagrant, or outrageous if the offender, aware of the other person’s emotional state, proceeds with the action. However, the offender’s conduct would not be categorized as such if they had no knowledge of the victim’s peculiar emotional state.<sup>52</sup>

## F) Negligent Infliction of Emotional Distress

A person is guilty of negligent infliction of emotional distress if: (1) the person negligently engaged in conduct, (2) where it is reasonably foreseeable that such conduct would cause another person severe emotional distress, and (3) the conduct does in fact cause that other person severe emotional distress.<sup>53</sup> A plaintiff must present evidence of diagnosable mental health conditions as bare allegations of pain and suffering without factual allegations will not qualify as severe emotional distress.<sup>54</sup>

## G) Parent-Child Relationships

### (i) *Unemancipated Minor v. Parent*

In North Carolina, the parent-child immunity doctrine bars legal action that is based on ordinary negligence between unemancipated children and their parents.<sup>55</sup> However, unemancipated minors are allowed to seek damages for injuries suffered as a result of a parent’s willful and malicious conduct. An act is willful when it is done purposely and deliberately in violation of law or when it is done knowingly and for a particular purpose. An act is malicious when committed deliberately without just cause, excuse, or justification and is reasonably calculated to cause injury.<sup>56</sup>

### (ii) *Emancipated Minor v. Parent*

The right of an emancipated minor to sue must exist at the time of the injury, and the subsequent emancipation or majority of the minor is of no consequence.<sup>57</sup> Similarly, an emancipated minor or a person obtaining the age of majority cannot maintain a civil action against their parents for a tort committed before emancipation.

### (iii) *Child Sex Abuse*

In 2019, North Carolina implemented the Sexual Assault Fast Reporting and Enforcement Act (the “SAFE Child Act”),<sup>58</sup> which extended the statute of limitations for civil actions based on sexual abuse suffered as a minor, from three to ten years. Additionally, the SAFE Child Act entitles a plaintiff to file a civil action against a defendant within two years of the date of a criminal conviction for a related felony sexual offense, where that plaintiff suffered sexual abuse under the age of 18 years.<sup>59</sup>



# RIGHTS OF CRIME VICTIMS IN NORTH CAROLINA

## A) Article. I, Section 37 of the North Carolina Constitution — Rights of Victims of Crime

Victims of crime or acts of delinquency are defined as persons against whom there is probable cause to believe a crime has been committed, including victims of FGM. Crime victims have various rights as set out below which can either be enforced by the victim, or, if the victim is a minor, is legally incapacitated, or deceased, by such victim's family member, guardian, or legal custodian:

- (i) The right to receive timely notice of court proceedings of the perpetrator.
- (ii) The right to be present at any court proceedings of the accused.
- (iii) The right to be reasonably heard at any court proceeding involving the plea, conviction, adjudication, sentencing, or release of the accused.
- (iv) The right to receive restitution in a manner as ordered by the court.
- (v) The right to information about the crime, the criminal justice process including in relation to rights of victims, the conviction, adjudication, or final disposition and sentence of the accused and the availability of services for victims.
- (vi) The right to receive notification of escape, release, proposed parole or pardon of the accused, or any notice shortening or postponing the accused's sentence.
- (vii) The right to present the victim's views and concerns to the Governor or agency considering any action that could result in the release of the accused, prior to such action becoming effective.
- (viii) The right to speak with the prosecutor.<sup>60</sup>

Further, a victim, family member, guardian, or legal custodian has the right to have their own attorney represent them at hearings, but the State will not provide or pay for such attorney. If the matter involves an allegation that the district attorney failed to comply with the rights of a victim when obligated to so do by law, the victim must at first instance give the district attorney who is responsible for the prosecution of the criminal action an opportunity to resolve any issue in a timely manner.

A victim will not have a claim for monetary damages, or any cause of action, against the State, a county, a municipality, or any of the agencies, instrumentalities, or officers and employees thereof under this section.

The failure or inability of any person to provide a right or service to a victim may not be used by a defendant in a criminal case, an inmate, or any other accused as a ground for relief in criminal or civil proceedings. A victim shall not have rights (i) to appeal any decision made in a criminal or juvenile proceeding; (ii) to challenge any verdict, sentence, or adjudication; (iii) to participate as a party in any proceeding; or (iv) to obtain confidential juvenile records.



## **B) Rights and Treatment for Certain Victims and Witnesses (N.C. Gen. Stat. Ann. § 15A-825)**

The employees of law enforcement agencies, the prosecutorial system, the judicial system, and the correctional system, including district attorney legal assistants, should ensure that each victim and witness within their jurisdiction shall be:

- (i) provided information regarding immediate medical assistance when needed and is not detained by law enforcement agencies for an unreasonable length of time before having medical assistance;
- (ii) provided information about available protection from law enforcement and prosecution efforts, and receives such protection;
- (iii) provided information that they do not need to disclose their home address in every case, and that the victim or witness may request the district attorney to object to that line of questioning;
- (iv) provided appropriate services to seek their employer's cooperation with the criminal justice system and minimize the employee's loss of pay and other employment benefits;
- (v) provided a secure waiting area (where practical) not in close proximity to defendants and families or friends of defendants during court proceedings;
- (vi) informed of the procedures to apply for and receive any appropriate witness fees or victim compensation, and also their right to be present throughout the entire trial of the defendant, be informed of the final disposition of the case, submit a victim impact statement for consideration by the court;
- (vii) prior to trial, informed about any plea bargaining procedures and is told that the district attorney may recommend a plea bargain to the court; and
- (viii) informed that civil remedies may be available and that statute of limitations apply in civil cases. Notwithstanding, victims do not have grounds to take civil or criminal actions against the State if their rights under this section are violated or if state agencies, employees and prosecutors fail to afford victims such rights.

## **C) Responsibilities of law enforcement agency (N.C. Gen. Stat. Ann. § 15A-831)**

Within 72 hours after receiving notification from the arresting law enforcement agency that the accused has been arrested, the investigating law enforcement agency shall provide the victim with the following information in writing: the availability of medical services, the availability of crime victims' compensation funds, the contact information of the district attorney's office that will be responsible for prosecuting the victim's case, the contact information of an investigating law enforcement agency, information about an accused's opportunity for pretrial release, and a list of each of the victim's rights. Upon receiving this information after reporting the crime, the victim shall, in writing, indicate whether the victim wishes to receive any further notices from the investigating law enforcement agency on the status of the accused during the pretrial process.

## **D) N.C. Gen. Stat. Ann. § 15A-831.1. Polygraph examinations of victims of sexual assaults.**

A criminal or juvenile justice agency shall not require a victim or a witness regarding the crime to submit to a polygraph or similar examination as a precondition to the agency conducting an investigation into the matter. Taking a polygraph examination is voluntary and the results are not admissible in court.



**E) N.C. Gen. Stat. Ann. § 15A-832. Responsibilities of the district attorney's office.**

The district attorney's office shall within 21 days after the arrest of the accused provide to the victim a pamphlet or other written material that explains: the victim's rights, including the right to reasonably confer with the district attorney's office, the responsibilities of the district attorney's office, the victim's eligibility for compensation, suggestions on what the victim should do if threatened or intimidated by the accused or someone acting on the accused's behalf, and the contact information of a victim and witness assistant in the district attorney's office whom the victim may contact for further information. After receiving this information, the victim shall, in writing, indicate whether the victim wishes to receive notices of some, all, or none of the trial and posttrial proceedings involving the accused.

The district attorney's office shall notify a victim of the date, time, and place of all court proceedings of the type that the victim has elected to receive notice in a reasonable, accurate, and timely manner.

The district attorney's office shall make every effort to ensure that a victim's personal information is not disclosed unless required by law. The district attorney's office shall inform the victim that personal information such as the victim's telephone number, home address, and bank account number are not relevant in every case and that the victim may request the district attorney to object to that line of questioning when appropriate.

**F) N.C. Gen. Stat. Ann. § 15A-832.1. Responsibilities of judicial officials.**

In issuing a pleading, a judicial official shall record the defendant's name and the victim's name, address, and telephone number electronically or on a form separate from the pleading. The judge, in any court proceeding subject to this article, shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The court shall make every effort to provide a secure waiting area during court proceedings that does not place the victim in close proximity to the defendant or the defendant's family.

**G) N.C. Gen. Stat. Ann. § 15A-833. Evidence of victim impact.**

A victim has the right to offer admissible evidence of the impact of the crime, which shall be considered by the court or jury in sentencing the defendant. The evidence may include: a description of the nature and extent of any physical, psychological, or emotional injury suffered by the victim as a result of the offense committed by the defendant; an explanation of any economic or property loss suffered by the victim as a result of the offense committed by the defendant; a request for restitution. A victim shall not be required to offer evidence of the impact of the crime.

**H) N.C. Gen. Stat. Ann. § 15A-834. Restitution.**

A victim has the right to receive restitution as ordered by the court.

**I) N.C. Gen. Stat. Ann. § 15A-834.5. Enforcement of the rights of a victim.**

A victim may allege a violation of the rights provided in this article by filing a motion with the office of the clerk of superior court. The motion must be filed within the same criminal proceeding giving rise to the rights in question. If the motion involves an allegation that the district attorney or a law enforcement agency failed to comply with the victim's rights, the victim must first file a written complaint with the offending agency to give them an opportunity to resolve the issue stated in the written complaint in a timely manner. The judge shall review and dispose of the motion or set the motion for hearing.



**J) N.C. Gen. Stat. Ann. § 15A-836. Responsibilities of agency with custody of defendant.**

When the victim has filed a written request for notification with the custodial agency, the custodial agency shall notify the victim of the projected date by which the defendant would be released from custody, the inmate's assignment, a defendant's escape from custody, the defendant's capture, the defendant's death, as well as contact information for the victim to submit any concerns to the agency.

**K) N.C. Gen. Stat. Ann. § 15A-837. Responsibilities of Division of Community Supervision and Reentry.**

The Division of Community Supervision and Reentry shall notify the victim of the defendant's regular conditions of probation or post-release supervision, special or added conditions, supervision requirements, and any subsequent changes, as well as the date and location of any hearings, modifications to restitution, or defendant's escape, capture, or death.

**L) N.C. Gen. Stat. Ann. § 15A-838. Notice of commuted sentence or pardon.**

The Governor's Clemency Office shall notify a victim when it is considering commuting the defendant's sentence or pardoning the defendant.

## CONCLUSION

### 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 childbirth challenges.<sup>61</sup> In addition, FGM is often followed by early marriage at the detriment of the survivor's education and career.<sup>62</sup>

If you are a survivor 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.

### FURTHER INFORMATION

For more information,  
please contact the  
AHA Foundation at  
[info@theahafoundation.org](mailto:info@theahafoundation.org)





## ANNEX

## REFERENCES

- <sup>1</sup> <https://www.un.org/en/observances/female-genital-mutilation-day>.
- <sup>2</sup> N.C. Gen. Stat. Ann. § 14-28.1.
- <sup>3</sup> *State v. Johnson*, 275 N.C. 264, 271, 167 S.E.2d 274, 279 (1969).
- <sup>4</sup> N.C. Gen. Stat. Ann. § 15-1.
- <sup>5</sup> N.C. Gen. Stat. Ann. § 14-28.1(a).
- <sup>6</sup> N.C. Gen. Stat. Ann. §§ 14-28.1(b), (c), (d).
- <sup>7</sup> N.C. Gen. Stat. Ann. § 14-28.1(e).
- <sup>8</sup> N.C. Gen. Stat. Ann. § 14-28.1(f).
- <sup>9</sup> *State v. Roberts*, 270 N.C. 655, 658, 155 S.E.2d 303, 305 (1967); *State v. Hill*, 6 N.C. App. 365, 369, 170 S.E.2d 99, 102 (1969). The North Carolina Supreme Court generally defines the common law offense of assault as “an overt act or an attempt, or the unequivocal appearance of an attempt, with force and violence, to do some immediate physical injury to the person of another, which show of force or menace of violence must be sufficient to put a person of reasonable firmness in fear of immediate bodily harm.” (1 Strong’s N.C. Index, Assault and Battery, § 4, p. 182; *State v. Davis*, 23 N.C. 125 (1840)). A battery is the offensive touching of the person of another without his or her consent (*City of Greenville v. Haywood*, 130 N.C. App. 271, 273, 502 S.E.2d 430, 432 (1998)).
- <sup>10</sup> A person convicted under this subsection who commits the assault on a person with whom the person has a personal relationship, and in the presence of a minor and who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court.
- <sup>11</sup> N.C. Gen. Stat. Ann. § 14-318.4(a).
- <sup>12</sup> N.C. Gen. Stat. Ann. § 14-318.4(a1).
- <sup>13</sup> N.C. Gen. Stat. Ann. § 14-318.4(a2).
- <sup>14</sup> N.C. Gen. Stat. Ann. § 14-318.4(a3).
- <sup>15</sup> N.C. Gen. Stat. Ann. § 14-318.4(a6)(d)(1) (defining “serious bodily injury” as “bodily that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.”)
- <sup>16</sup> N.C. Gen. Stat. Ann. § 14-318.4(a6)(d)(2) (defining “serious physical injury” as “physical injury that causes great pain and suffering. The term includes serious mental injury.”)
- <sup>17</sup> N.C. Gen. Stat. Ann. § 14-39(a).
- <sup>18</sup> N.C. Gen. Stat. Ann. § 14-39(b).
- <sup>19</sup> N.C. Gen. Stat. Ann. § 14-43.3.
- <sup>20</sup> N.C. Gen. Stat. Ann. § 14-43.3.
- <sup>21</sup> N.C. Gen. Stat. § Ann. 90-98.
- <sup>22</sup> N.C. Gen. Stat. Ann. § 15-1. The following misdemeanors shall be charged within 10 years of the commission of the crime:
  - (1) N.C. Gen. Stat. Ann. § 7B-301(b).
  - (2) N.C. Gen. Stat. Ann. § 14-27.33.
  - (3) N.C. Gen. Stat. Ann. § 14-202.2.
  - (4) N.C. Gen. Stat. Ann. § 14-318.2.
  - (5) N.C. Gen. Stat. Ann. § 14-318.6.
- <sup>23</sup> N.C. Gen. Stat. Ann. § 7B-301. See N.C. Gen. Stat. Ann. § 7B-101 (defining “Dependent Juvenile” as “A juvenile in need of assistance or placement because (i) the juvenile has no parent, guardian, or custodian responsible for the juvenile’s care or supervision or (ii) the juvenile’s parent, guardian, or custodian is unable to provide for the juvenile’s care or supervision and lacks an appropriate alternative child care arrangement.”)
- <sup>24</sup> N.C. Gen. Stat. Ann. § 14-27.33.
- <sup>25</sup> N.C. Gen. Stat. Ann. § 14-318.2.
- <sup>26</sup> See N.C. Gen. Stat. Ann. § 14-318.6(a)(5) (defining “violent offense” as “any offense that inflicts upon the juvenile serious bodily injury or serious physical injury by other than accidental means. This term also includes the following: an attempt, solicitation, or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.”)
- <sup>27</sup> See N.C. Gen. Stat. Ann. § 14-208.6(5) (defining a “sexually violent offense” to include sexual offenses against a juvenile. The term “sexual offense” can also include the following crimes: an attempt, solicitation, or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.)
- <sup>28</sup> N.C. Gen. Stat. Ann. § 14-318.6(b)(c).
- <sup>29</sup> N.C. Gen. Stat. Ann. § 14-318.6(e).
- <sup>30</sup> *Kuykendall v. Turner*, 301 S.E.2d 715 (N.C. App. 1983).
- <sup>31</sup> *Perry v. W. Marine, Inc.*, 805 S.E.2d 544 (N.C. App. 2017) (citing *Dickens v. Puryear*, 302 N.C. 437, 445, 276 S.E.2d 325, 331 (1981)).
- <sup>32</sup> *Zander v. United States*, No. 1:12CV700, 2016 U.S. Dist. LEXIS 43289 (M.D.N.C. 2016); *Holloway v. Wachovia Bank & Tr. Co., N.A.*, 452 S.E.2d 233 (N.C. 1994).
- <sup>33</sup> *Perry v. W. Marine, Inc.*, 805 S.E.2d 544 (N.C. App. 2017).
- <sup>34</sup> *Kuykendall v. Turner*, 301 S.E.2d 715 (N.C. App. 1983).
- <sup>35</sup> N.C. Gen. Stat. Ann. § 1-52(19) (2023).
- <sup>36</sup> N.C. Gen. Stat. Ann. § 1-17 (a) (2023).
- <sup>37</sup> *Sargent v. Edwards*, 808 S.E.2d 927 (N.C. App. 2018).
- <sup>38</sup> *Hawkins v. Hawkins*, 400 S.E.2d 472 (N.C. App. 1991).
- <sup>39</sup> *Kuykendall v. Turner*, 301 S.E.2d 715 (N.C. App. 1983).
- <sup>40</sup> N.C. Gen. Stat. Ann. § 1-52 (2023); N.C. Gen. Stat. § 1-17 (a) (2023).
- <sup>41</sup> N.C. Gen. Stat. Ann. § 14-27.33 (a1) (2015).
- <sup>42</sup> N.C. Gen. Stat. Ann. § 14-27.33 (a2) (2023).
- <sup>43</sup> *In re K.B.*, 702 S.E.2d 555 (N.C. App. 2010).
- <sup>44</sup> N.C. Gen. Stat. Ann. § 1-17(d) (2023).
- <sup>45</sup> *Edwards v. City of Concord*, 827 F. Supp. 2d 517 (M.D.N.C. 2011).
- <sup>46</sup> *Id.*
- <sup>47</sup> *Mullins v. Friend*, 449 S.E.2d 227 (N.C. App. 1994).
- <sup>48</sup> *Howald v. Herrington*, No. 1:21-cv-00059-MR-WCM, 2022 U.S. Dist. LEXIS 197184 (W.D.N.C. 2022).
- <sup>49</sup> *Wilkerson v. Duke Univ.*, 229 N.C. App. 670, 748 S.E.2d 154 (2013).
- <sup>50</sup> *Briggs v. Rosenthal*, 327 S.E.2d 308 (N.C. App. 1985).
- <sup>51</sup> *Id.*
- <sup>52</sup> *Id.*
- <sup>53</sup> *Hudson v. Hudson*, 881 S.E.2d 636 (N.C. App. 2022).
- <sup>54</sup> *Id.*
- <sup>55</sup> *Needham v. Price*, 780 S.E.2d 549 (N.C. 2015).
- <sup>56</sup> *Id.*
- <sup>57</sup> *Coffey v. Coffey*, 381 S.E.2d 467 (N.C. App. 1989).
- <sup>58</sup> S.B. 199, 2019 Gen. Assemb., Reg. Sess. (N.C. 2019).
- <sup>59</sup> N.C. Gen. Stat. Ann. § 1-17(e) (2023).
- <sup>60</sup> This paraphrases Article. I, Section 37 of the North Carolina Constitution, the full text of which can be found here: <https://www.ncleg.gov/Laws/Constitution/Article1>.
- <sup>61</sup> Eva Ontiveros, *What is FGM, where does it happen and why?*, BBC News, <https://www.bbc.co.uk/news/world-47131052>.
- <sup>62</sup> U.N. International Day of Zero Tolerance for Female Genital Mutilation, 6 February: Ending Female Genital Mutilation by 2030, <https://www.un.org/en/observances/female-genital-mutilation-day>.