

FGM SURVIVOR'S GUIDE

— TO —

LEGAL REMEDIES

IN THE STATE OF
COLORADO

DEVELOPED FOR [AHA](#) FOUNDATION

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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 Colorado 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 Colorado concerning any specific legal issue. This Guide is up to date as of October 24, 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 Colorado, 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.

Colorado classified FGM as a form of child abuse in 1999 and offers a range of legal remedies through its state criminal court system in relation to FGM. A person commits child abuse if they (a) cause injury to a child under 16, (b) allow a child under 16 to be placed in a situation which threatens injury or (c) continuously acts in a manner that leads to proper medical care, cruel punishment, mistreatment of a child under 16 or who causes a series of injuries resulting in death or serious bodily injury to a child under 16.

A parent, guardian or other person responsible for a child under 16 commits child abuse if they allow FGM to that child. It is not a defense that the FGM was required as a matter of custom or ritual or standard practice, or that the child consented to the FGM.

Depending on the facts and circumstances of a particular case, perpetrators of FGM-related child abuse may commit a felony ranging from a class 1 felony to a class 4 felony or a misdemeanor.

In addition, it can be a misdemeanor if certain persons fail to report a suspected or witnessed child abuse or neglect. FGM may also fall under other general criminal laws including assault, menacing, reckless endangerment, criminal attempt, criminal solicitation, kidnapping or false imprisonment. Some of these actions are felonies and others are misdemeanors. Although survivors of FGM in Colorado 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 serious felonies in Colorado, although other felonies have a 10-year or a three-year limitation period. Misdemeanors generally have an 18-month limitation period, which may be extended if the victim is under the age of 15 at the time of the offense.

In addition to the criminal remedies, Colorado offers FGM survivors legal remedies through its state civil court system. Although there is no FGM-specific civil cause of action, survivors of FGM 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 with the limitation periods ranging from one year to six years, although sexual misconduct perpetrated after January 1, 2023, has no limitation period.

Under the doctrine of qualified parental immunity in Colorado, a child under the age of 18 may not bring a claim of negligence against their parent, although a child may bring a claim against a parent for the parent's willful and wanton misconduct.

Finally, under Colorado state law, victims of crimes including FGM are entitled to certain rights and protections. These include rights to (a) be treated fairly and with respect and dignity, free from intimidation, harassment or abuse, (b) be informed of all critical stages of the criminal process, (c) be present at most critical stages of criminal proceedings, including sentencing, (d) be heard in public proceedings, including making an impact statement, (e) restitution from the defendant and have the court determine the amount of any restitution, (f) information on victim's services and financial assistance, including the criminal injuries compensation fund and (g) informed of the release or discharge of a defendant, or the transfer of a convicted person to a less secure or private correctional facility.

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

The United Nations 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.¹

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.



BACKGROUND OF REMEDIES AVAILABLE TO SURVIVORS UNDER COLORADO ANTI-FGM LAWS

Colorado's criminal and civil laws offer survivors of FGM a number of different legal pathways to pursue justice. In 1999, Colorado classified FGM as a form of child abuse.

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 Colorado-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 "**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 COLORADO

CRIMINAL LAWS AND STATUTES

In 1999, Colorado classified FGM as a form of child abuse.² Colorado imposes strict penalties for perpetrators of child abuse, including the child's parent or guardian and circumciser. FGM is classified as a felony with fines and minimum imprisonment of up to four years.³

Perpetrators of FGM can be prosecuted for the following crimes:

A) COLO. REV. STAT. § 18-6-401. Child Abuse.

A person commits child abuse if such person causes injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or any series of injuries that results in the death of a child or serious bodily injury to a child.⁴ Under Colorado's child abuse laws, a "child" means a person under the age of 16.⁵

A parent, guardian or other person legally responsible for a female child or charged with the care of a female child commits child abuse if he or she allows the excision or infibulation, in whole or in part, of such child's labia majora, labia minora, vulva, or clitoris. It is not a defense that such conduct was consented to by the child, or is required due to custom, ritual or standard practice.⁶ It is not a crime if a surgical procedure is carried out by a person licensed to practice medicine and is necessary to preserve the health of the child or is performed for medical purposes on a child in labor.⁷

When a person knowingly causes the death of a child under the age of 12, and such person is in a position of trust to the child, such person commits murder in the first degree.⁸

When a person acts knowingly or recklessly and the child abuse results in death to the child, it is a class 2 felony. When a person acts with criminal negligence and the child abuse results in death to the child, it is a class 3 felony. When a person acts knowingly or recklessly and the child abuse results in serious bodily injury to the child, it is a class 3 felony. When a person acts with criminal negligence and the child abuse results in serious bodily injury to the child, it is a class 4 felony.⁹

When a person acts (i) knowingly or recklessly, or (ii) with criminal negligence, and the child abuse results in any injury other than serious bodily injury, it is a misdemeanor.¹⁰

B) COLO. REV. STAT. § 19-3-304. Persons Required to Report Child Abuse or Neglect.

Any mandated reporter, as specified in Colo. Rev. Stat. § 19-3-304, who suspects or witnesses a child that has been abused or neglected must immediately create a report to the county department, the local law enforcement agency or through the child abuse reporting hotline system.¹¹ Any other person may also report such suspected or known abuse or neglect to the same reporting bodies.

It is a punishable misdemeanor (i) for any listed person to not make a report where they know or suspect child abuse or neglect, or (ii) to make a false report.

C) COLO. REV. STAT. § 18-3-204. Assault in the Third Degree.

A person commits assault in the third-degree crime if they knowingly, recklessly or with criminal negligence causes bodily injury to another using a deadly weapon.¹² Assault in the third degree is a class 1 misdemeanor.

D) COLO. REV. STAT. § 18-3-206. Menacing.

A person commits menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury.¹³ Menacing is a class 1 misdemeanor.

Menacing is a class 5 felony if it is committed (i) using a deadly weapon or any item used in a manner to cause a person to believe that the item is a deadly weapon, or (ii) the person represents that they are armed with a deadly weapon.¹⁴

E) COLO. REV. STAT. § 18-3-208. Reckless Endangerment.

A person commits reckless endangerment if he or she recklessly engages in conduct that creates a substantial risk of serious bodily injury to another person. Reckless endangerment is a class 2 misdemeanor.

F) COLO. REV. STAT. § 18-2-101. Attempt.

A person commits criminal attempt if they engage in conduct constituting a “substantial step” toward the commission of the offense. A “substantial step” is any conduct which strongly demonstrates the person’s aim to complete the commission of the offense.¹⁵

Factual or legal impossibility of committing the offense is not a defense. However, it is a defense to a charge of criminal attempt if the defendant abandons their effort to commit the crime, thereby demonstrating the complete and voluntary renunciation of criminal intent.¹⁶

A person who engages in conduct intending to aid another commit an offense commits criminal attempt if the conduct would make him complicit if the offense was committed by the other person, even if the other person is not guilty of committing or attempting the offense.¹⁷

G) COLO. REV. STAT. § 18-2-2101. Conspiracy.

A person commits criminal solicitation if they attempt to persuade another person, or offer their services or another's services to a third person, to commit a felony.

It is not a defense that the person solicited could not be guilty of the offense because of a lack of responsibility or culpability. However, it is a defense to a charge of conspiracy if the defendant, after soliciting another person to commit a felony, persuades him not to do so or prevents the commission of the felony, thereby demonstrating the complete and voluntary renunciation of criminal intent.¹⁸

H) COLO. REV. STAT. § 18-3-301. First Degree Kidnapping.

A person who does any of the following acts with the intent to force the victim or any other person to make any concession or give up anything of value in order to secure the release of a person under the offender's actual or apparent control commits first degree kidnapping:

- a. forcibly seizes and carries any person from one place to another; or
- b. entices or persuades any person to go from one place to another; or
- c. imprisons or forcibly secretes any person.¹⁹

First degree kidnapping is a class 1 felony if the person kidnapped suffers bodily injury; but no person convicted of first-degree kidnapping shall suffer the death penalty if the person kidnapped was liberated alive prior to the conviction of the kidnapper.²⁰

First degree kidnapping is a class 2 felony if, prior to the perpetrator's conviction, the person kidnapped was liberated unharmed.²¹

I) COLO. REV. STAT. § 18-3-302. Second Degree Kidnapping.

A person commits a second-degree kidnapping if they:

- a. knowingly seize and carry any person from one place to another without consent and without lawful justification; or
- b. take, entice, or decoy away any child not their own under the age of 18 with intent to keep or conceal the child from their parent or guardian or with intent to sell or trade such child.

In most circumstances, second-degree kidnapping is a class 2 felony or a class 3 felony.²²

J) COLO. REV. STAT. § 18-3-303. False Imprisonment.

Any person who knowingly confines or detains another without the other's consent and without proper legal authority commits false imprisonment.²³ In most circumstances, false imprisonment is a class 2 misdemeanor. It can, however, be a class 5 felony if (i) the person confines or detains another person less than 18 years of age in a locked or barricaded room under circumstances that cause bodily injury or serious emotional distress and (ii) such confinement or detention was part of a continued pattern of cruel punishment or unreasonable isolation or confinement of the child.²⁴

K) Sentencing

a. COLO. REV. STAT. § 18-1.3-401. Felonies Classified – Presumptive Penalties.

INCREASED PENALTIES

Certain crimes present extraordinary risks to society and are subject to modified presumptive sentencing ranges. ²⁵	For these crimes, the maximum sentence in the presumptive range for class 3 felonies is increased by four years. For class 4 felonies, the maximum sentence in the presumptive range is increased by two years. For class 5 felonies, the maximum sentence in the presumptive range is increased by one year. For class 6 felonies, the maximum sentence in the presumptive range is increased by six months. Crimes that present an extraordinary risk of harm to society include child abuse and assault in the second degree.
Class 2 and class 3 felony child abuse.	If the defendant is convicted of the class 2 or the class 3 felony of child abuse, they will be sentenced for a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of that class felony. ²⁶
Misdemeanor child abuse.	The maximum sentence for misdemeanor child abuse is increased by six months.

L) Statute of Limitations

a. COLO. REV. STAT. § 16-5-401. Limitation for Commencing Criminal Proceedings and Juvenile Delinquency Proceedings.

No person can be prosecuted, tried, or punished for any offense or delinquent act unless the indictment, information, complaint, or petition in delinquency is filed in a court of competent jurisdiction or a summons and complaint or penalty assessment notice is served upon the defendant or juvenile within the period of time after the commission of the offense or delinquent act as specified below:

OFFENSE	LIMITATION
Kidnapping and any sex offense against a child.	No limit
Attempt, conspiracy, or solicitation to commit kidnapping; and attempt, conspiracy, or solicitation to commit any sex offense against a child.	No limit
Other felonies	Three years
Misdemeanors	18 months

When the victim at the time of the commission of a misdemeanor offense or delinquent act is a child under 15 years of age, the period of time during which an adult person or juvenile may be prosecuted is extended for an additional three years and six months.

M) COLO. REV. STAT. § 18-6-401.1. Child Abuse – Limitation for Commencing Proceedings – Evidence – Statutory Privilege.

No person shall be prosecuted, tried, or punished for an act of child abuse other than misdemeanor child abuse offenses²⁷ unless the indictment, information, complaint, or action for the same is found or instituted within ten years after commission of the offense. No person shall be prosecuted, tried, or punished for misdemeanor child abuse offenses unless the indictment, information, complaint, or action for the same is found or instituted within five years after the commission of the offense.²⁸

All cases involving the commission of an act of child abuse shall take precedence before the court. The court shall hear these cases as soon as possible after they are filed.²⁹

CIVIL CAUSES OF ACTION

Colorado does not have an FGM-specific civil cause of action. However, FGM survivors can pursue other civil causes of action through the state courts, including assault, battery, sexual battery, false imprisonment and intentional and negligent infliction of emotional distress (each discussed in detail below).

The Colorado Supreme Court recognizes the rule that where the same acts constitute a criminal and a civil cause of action, the acquittal of a defendant upon trial of the criminal offense is no bar to the victim pursuing the corresponding civil action.³⁰

Civil claims must be commenced within the requisite timeframes provided below:

CAUSE OF ACTION	STATUTE OF LIMITATIONS	TOLLING
Assault, Battery, False Imprisonment Colo. Rev. Stat. § 13-80-103(1)(a).	One year	The one-year period starts from the date that both the injury and its cause are known or should have been known by the exercise of reasonable diligence. ³¹
Intentional or Negligent Infliction of Emotional Distress Colo. Rev. Stat. § 13-80-102(1)(a).	Two years	The two-year period starts from the date that both the injury and its cause are known or should have been known by the exercise of reasonable diligence. ³²
Sexual Misconduct Colo. Rev. Stat. § 13-80-103.7(1).	Six years or any time without limitation	<p>After January 1, 2023, any civil action based on sexual misconduct may be commenced at any time without limitation. Prior to January 1, 2023, any civil action based on sexual misconduct must be brought within six years.</p> <p>The six-year period starts as of the date on which the victim turns 18,³³ or the date that both the injury and its cause are known or should have been known by the exercise of reasonable diligence.³⁴</p>

A) CAUSES OF ACTION

a. Assault

Assault requires the following elements to be proven: (i) the defendant acted either with the intent of making contact with the victim or with the intent of putting the victim in fear of such a contact; (ii) the victim was placed in fear of an imminent contact with their person by the conduct of the defendant; and (iii) such contact was or appeared to be harmful or offensive.³⁵

b. Battery

Battery is any act intending to cause a harmful or offensive contact with the victim or a third person, or an imminent fear of such a contact, and an offensive or harmful contact with the victim or a third person directly or indirectly results.³⁶ If the defendant does not intend to cause harmful or offensive contact, he will not be liable for battery.³⁷

c. False Imprisonment

False imprisonment requires the following elements to be proven: (i) that the defendant intended to restrict

the victim's freedom of movement; (ii) that the victim's freedom of movement was actually restricted for a period of time, however short, either directly or indirectly by an act of the defendant; and (iii) the victim was aware that their freedom of movement was restricted.³⁸

d. Intentional Infliction of Emotional Distress (Outrageous Conduct)

Colorado courts recognize injury caused by extreme and outrageous conduct that intentionally or recklessly causes severe emotional distress to another person. The person whose conduct caused the injury is subject to liability for such emotional distress and, if bodily harm to the other person results from the conduct, for such bodily harm.³⁹ The conduct must be so outrageous in character and so extreme in degree that it goes beyond all possible bounds of decency and should be regarded as atrocious and utterly intolerable in a civilized community.⁴⁰

e. Negligent Infliction of Emotional Distress

To prove negligent infliction of emotional distress, a victim must show that another person's negligence created (i) an unreasonable risk of physical harm and caused the victim to be put in fear for their own safety; (ii) that their fear must have had physical consequences or resulted in long-continued emotional disturbance; and (iii) that the victim's fear must have been the cause of the damages he or she claims.⁴¹ The victim must also show that he or she sustained physical injury or was in the "zone of danger."⁴²

If the victim has observed injury to a family member but was in no danger himself or herself, there can be no recovery.⁴³ Recovery for emotional distress is permitted only if there are physical manifestations or mental illness.⁴⁴ Examples of physical manifestations or mental illness, which may include long-continued nausea or headaches or repeated hysterical attacks or mental aberrations.⁴⁵

f. Sexual Misconduct

A person who is a victim of sexual misconduct that occurred when the victim was a minor (18 or younger) may bring a civil action for damages against: (i) an actor who committed the sexual misconduct; and (ii) an organization that knew or should have known that an actor or youth-related activity posed a risk of sexual misconduct against a minor and the sexual misconduct occurred while the victim was participating in the youth-related activity operated or managed by the organization.⁴⁶

Sexual misconduct means any conduct that is engaged in for the purpose of the sexual arousal, gratification, or abuse of any person, and that constitutes certain criminal offenses.⁴⁷

B) CAUSES OF ACTION IN PARENT-CHILD RELATIONSHIPS

With respect to the above-mentioned causes of action, Colorado has adopted the qualified parental immunity doctrine in parent-child relationships, which provides that a child is barred from suing a parent for simple negligence.⁴⁸ However, a child can sue a parent for willful and wanton misconduct.⁴⁹

Willful and wanton misconduct involves a purposeful act or omission, which the parent should have realized was dangerous to the child, but nonetheless was committed recklessly and without regard to the child's safety.⁵⁰ Parental immunity will likely still apply when the parent acts negligently. Negligence is not intentional, but involves a state of mind in which the person fails to give due attention to their acts or omissions or to weigh their consequences. In comparison, willful acts and omissions are conscious acts, the possible consequences of which are present in the mind of the parent.⁵¹

RIGHTS OF CRIME VICTIMS IN COLORADO

Crime victims, including victims of FGM, are entitled to protection under the Colorado State Constitution and other Colorado laws.⁵²

Colorado's statutory scheme for crime victims aims to support crime victims in recovering financially from the physical and emotional injuries caused during a criminal act by covering specific crime related expenses or losses,⁵³ as well as protecting their rights to participate in criminal proceedings.⁵⁴

In particular, the Victims' Rights Act (the "Act") affords the following rights to crime victims in Colorado:

- (i) the right to be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process;⁵⁵
- (ii) the right to have a court determine the amount, if any, of restitution and to be informed of the availability of financial assistance and community service;
- (iii) the right to have "appropriate employer intercession services" to encourage employer cooperation;
- (iv) the right to be informed of the results of any HIV testing ordered pursuant to statute.⁵⁶

The Act also establishes procedures and responsibilities for implementing these rights by law enforcement agencies, prosecutorial agencies, judicial agencies, and correctional agencies.⁵⁷

A victim is any person against whom a compensable crime (as defined below), is perpetrated or attempted.⁵⁸ A person who attempts to assist or assists a victim, or who is a relative of a victim and suffers property damage, economic loss, injury, or death as a result of a compensable crime perpetrated or attempted to another, is also considered a victim.

Further, if a person who is a resident of Colorado is a victim of a compensable crime that occurred in another state or country and there is no compensation available to them in that other place, they can seek compensation in Colorado.

A "crime" includes offenses, acts, and violations, whether committed by an adult or a juvenile, such as second degree assault,⁵⁹ third degree assault,⁶⁰ menacing,⁶¹ and child abuse.^{62,63}

A "compensable crime" is an intentional, knowing, reckless, or criminally negligent act of a person that results in residential property damage or bodily injury or death of another person or results in loss of or damage to medically necessary devices, aids or prosthetics and which, if committed by a person of full legal capacity, is punishable as a crime in Colorado. Compensable crimes also include federal offenses if they are committed in Colorado.⁶⁴

A) COLO. REV. STAT. § 24-4.1-103; 24-4.1-105. Application for compensation.

A person eligible for compensation may apply to the Crime Victim Compensation Board (the “Board”) in the judicial district that the crime was committed. If the person eligible is a minor or mentally incompetent person, the application may be made on their behalf by their parent, guardian or any individual authorized to administer their estate.

In order to be eligible for compensation, the applicant shall submit reports, if reasonably available, from any physician who has treated or examined the victim at the time of or subsequent to the injury or death. The Board may also request reports on the previous medical history of the victim, or on the cause of death of the victim by a medical expert.

Where the application is for compensation for property damage, the applicant shall submit a report or case number, if reasonably available, from a law enforcement agency which sets forth the nature of the property damage which is the result of a compensable crime.

B) COLO. REV. STAT. § 24-4.1-106. Hearings.

The Board may conduct a hearing upon any application submitted to it. The burden of proof is on the applicant to show that the claim is reasonable and compensable.

Orders and decisions of the Board are final and the review of an order or decision of the Board may be made in accordance with Colorado’s rules of civil procedure.

C) COLO. REV. STAT. § 24-4.1-108. Awarding compensation.

A person is entitled to an award of compensation if: (a) they are a victim, dependent or successor of a victim of a compensable crime; (b) law enforcement was notified within 72 hours after the crime was perpetrated; (c) they have cooperated with law enforcement in apprehending or prosecuting the offender; and (d) their application is filed within one year of the date of their injury.

D) COLO. REV. STAT. § 24-4.1-109. Losses compensable.

Victims may also be compensated for certain losses, including, medical expenses and counseling, loss of earnings, burial expenses and household support.

E) COLO. REV. STAT. § 24-4.1-302.5. Rights afforded to victims.

Victims have the right to be informed about:

- (i) the status of any case concerning a crime against the victim including the status of all critical stages of the criminal justice process;
- (ii) what steps can be taken by a victim and protection services available if there is any intimidation or harassment against the victim;
- (iii) when a person who is accused or convicted of a crime against the victim is released or discharged from jail or custody other than county jail, paroled, escapes from a secure or nonsecure correctional facility or program, or absconds from probation or parole;
- (iv) the victim’s right to pursue a civil judgment for damages against any person convicted of a crime against the victim; and

(v) when a person convicted of a crime against the victim is placed in or transferred to a less secure public or private correctional facility or program or if there is any proceeding at which any postconviction release from confinement in a secure state correctional facility is being considered.

Victims have the right to be heard at any court proceeding and to be present at the sentencing of any person convicted of a crime against the victim (if required by the victim, at a secure waiting area that does not require the victim to be seen or be in close proximity to the person accused or convicted of a crime against the victim or such person's family or friends). Victims may also make a statement about the impact of the crime at the hearing.

F) COLO. REV. STAT. § 24-4.1-303. Procedures for ensuring rights of victims of crimes.

The law enforcement agency responsible for investigating the crime shall, after initial contact with the victim, give to the victim, in writing, all of the following information:

- (i) an explanation of the victim's rights;
- (ii) information about victim assistance, medical, emergency and other available services;
- (iii) information about compensation available to victims of crime;
- (iv) information about other protection that is available to the victim, including court protection orders; and
- (v) a copy of the law enforcement report and other documents related to the case.

If appropriate, the following information shall also be provided to the victim by the law enforcement agency when such information becomes available:

- (i) the business address and phone number of the district attorney's office and any law enforcement officer assigned to investigate the case (along with the case file number);
- (ii) information as to whether a suspect has been taken into custody or has been released and any conditions imposed upon such release; and
- (iii) any final decision not to file misdemeanor charges against a person accused of committing any crime specified in Colo. Rev. Stat. § 24-4.1-302(1) (including offenses, acts, and violations, whether committed by an adult or a juvenile, such as second degree assault, third degree assault, menacing and child abuse).

If the victim's case is a cold case, the law enforcement agency shall inform the victim if there is any change in the status of the case and, if requested in writing by the victim and the relevant crime has a statute of limitations longer than three years, provide at least an annual status update to the victim.

The district attorney should consult with the victim concerning the reduction of charges, negotiated pleas, diversion, dismissal, seeking of death penalty, or other disposition and provide the victim with certain information, including details of:

- (i) a motion that may result in a substantial delay in the prosecution of the case; and
- (ii) the availability of services to the victim including, follow-up support, counseling, childcare, transportation and household assistance, interpretation services, assistance in dealing with creditors and credit reporting agencies and services for child victims, elderly victims and victims who are persons with disabilities.

Crime victims or their representatives may be present at all critical stages of a criminal proceeding (subject to certain exceptions) regarding any crime against the victim including the phase of the trial at which the defendant is determined to be guilty or not guilty and may testify at such phase of the trial.

Crime victims have rights to certain protections, including confidentiality of certain personal information of the victim or members of the victim's immediate family and protection from harm, harassment, intimidation, or retaliation arising from cooperating in the report, investigation, and prosecution of the crime.

Law enforcement officials and the district attorney shall use reasonable effort to minimize contact between the victim or the victim's immediate family and the defendant or the relatives of the defendant.

The district attorney or any law enforcement agency shall, upon request of the victim, return any property of the victim, unless that property is needed as evidence.

G) COLO. REV. STAT. § 24-4.1-304. Child victim or witness, rights and services.

If a child is involved in criminal proceedings as a victim or a witness, the child has the right to have a designated person (a) explain, in language understood by the child, all legal proceedings in which the child will be involved; (b) act on the child's behalf as a friend of the court; (c) provide assistance in coping with the emotional impact of the crime and the criminal proceedings; and (d) advise the district attorney on the child's ability to cooperate with the proceedings and the potential effects of the proceedings on the child.

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 child-birth challenges.⁶⁵ In addition, FGM is often followed by early marriage at the detriment of the survivor's education and career.⁶⁶

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



ANNEX

REFERENCES

- 1 <https://www.un.org/en/observances/female-genital-mutilation-day>.
- 2 Colo. Rev. Stat. § 18-6-401(1)(b)(I).
- 3 Colo. Rev. Stat. § 18-6-401(1)(b)(I).
- 4 Colo. Rev. Stat. § 18-6-401(1)(a).
- 5 Colo. Rev. Stat. § 18-6-401(2).
- 6 Colo. Rev. Stat. § 18-6-401(1)(b)(I)-(II).
- 7 Colo. Rev. Stat. § 18-6-401(1)(b)(III).
- 8 Colo. Rev. Stat. § 18-6-401(7)(c).
- 9 Colo. Rev. Stat. § 18-6-401(7)(a)(I)-(IV).
- 10 Colo. Rev. Stat. § 18-6-401(7)(a)(V)-(VI).
- 11 See Colo. Rev. Stat. § 19-3-304(2) (specifying that persons required to report such abuse or neglect or circumstances or conditions include any: physician or surgeon, child health associate, medical examiner or coroner, dentist, osteopath, optometrist, chiropractor, podiatrist, registered nurse or licensed practical nurse, hospital personnel engaged in the admission, care, or treatment of patients, Christian science practitioner, public or private school official or employee, social worker, mental health professional, dental hygienist, psychologist, physical therapist, veterinarian, peace officer; pharmacist, commercial film and photographic print processor, firefighter, victim's advocate, licensed professional counselor, licensed marriage and family therapist, unlicensed psychotherapist, clergy member, registered dietitian, worker in the state department of human services, juvenile parole and probation officer, child and family investigator, officer and agent of the state bureau of animal protection and animal control officers, the child protection ombudsman, educator providing services through a federal special supplemental nutrition program for women, infants and children, director or coach or athletic program personnel employed by a private sports organization, person registered as a psychologist candidate, marriage and family therapist candidate or licensed professional counselor candidate, emergency medical services providers, officials or employees of county departments of health, human services or social services and naturopathic doctors.)
- 12 Colo. Rev. Stat. § 18-3-204(1).
- 13 Colo. Rev. Stat. § 18-3-206(1).
- 14 *Id.*
- 15 Colo. Rev. Stat. § 18-2-101(1).
- 16 Colo. Rev. Stat. § 18-2-101(3).
- 17 Colo. Rev. Stat. § 18-2-101(2).
- 18 Colo. Rev. Stat. § 18-2-201(3)-(4).
- 19 Colo. Rev. Stat. § 18-3-301(1).
- 20 Colo. Rev. Stat. § 18-3-301(2).
- 21 Colo. Rev. Stat. § 18-3-301(3).
- 22 Colo. Rev. Stat. § 18-3-302(3)-(4).
- 23 Colo. Rev. Stat. § 18-3-303(1).
- 24 Colo. Rev. Stat. § 18-3-303(2).
- 25 Colo. Rev. Stat. § 18-1.3-401(10).
- 26 Colo. Rev. Stat. § 18-6-401(7)(a)(I) or (7)(a)(III).
- 27 As specified in Colo. Rev. Stat. § 18-6-401(7)(a)(V), (7)(a)(VI), and (7)(b).
- 28 Colo. Rev. Stat. § 18-6-401.1(2).
- 29 Colo. Rev. Stat. § 18-6-401.1(4).
- 30 *Reeb v. Civil Service Commission*, 31 Colo. App. 488, 492, 503 P.2d 629 (1972) (citing *Harper v. Blasi*, 112 Colo. 518, 151 P.2d 760).
- 31 Colo. Rev. Stat. § 13-80-108(1).
- 32 Colo. Rev. Stat. § 13-80-108(1).
- 33 Colo. Rev. Stat. § 13-80-103.7(1).
- 34 Colo. Rev. Stat. § 13-80-108(1).
- 35 *Adams v. Corr. Corp. of Am.*, 187 P.3d 1190, 1194 (Colo. 2008).
- 36 *White v. Muniz*, 999 P.2d 814, 816 (Colo. 2000).
- 37 *Id.*
- 38 *Goodboe v. Gabriella*, 663 P.2d 1051, 1055-56 (Colo. App. 1983).
- 39 *Destefano v. Grabrian*, 763 P.2d 275 (Colo. 1988).
- 40 *Churchey v. Adolph Coors Co.*, 759 P.2d 1336 (Colo. 1988).
- 41 *Scharrel v. Wal-Mart Stores, Inc.*, 949 P.2d 89 (Colo. App. 1997).
- 42 *Colwell v. Mentzer Investments, Inc.*, 973 P.2d 631, 638 (Colo. App. 1998).
- 43 *Id.*
- 44 *Id.*
- 45 *Id.*
- 46 Colo. Rev. Stat. § 13-20-1202(1).
- 47 Colo. Rev. Stat. § 13-20-1201(8) (the criminal offenses include: first-degree misdemeanor or a felony offense; human trafficking for sexual servitude; a federal sex offense; obscene visual representations of the sexual abuse of children; transfer of obscene material to minors; or attempt or conspiracy to commit sex trafficking of children or by force, fraud, or coercion).
- 48 *Terror Mining Co. v. Roter*, 866 P.2d 929, 933 (Colo. 1994); see also *Paris v. Dance*, 194 P.3d 404, 407-08 (Colo. App. 2008).
- 49 *Terror Mining Co. v. Roter*, 866 P.2d at 933.
- 50 *Id.* at 933.
- 51 *Id.* at 934.
- 52 Colo. Rev. Stat. Const. Art. 2, § 16a; Colo. Rev. Stat. § 24-4.1-302(1).
- 53 Colo. Rev. Stat. § 24-4.1-109 (enumerating the types of losses that are compensable).
- 54 Colo. Rev. Stat. § 24-4.1-302.5(1)(a) to (u) (establishes 24 rights to be afforded).
- 55 Colo. Rev. Stat. § 24-4.1-302.5.
- 56 Colo. Rev. Stat. § 24-4.1-302.5.
- 57 Colo. Rev. Stat. § 24-4.1-303.
- 58 Colo. Rev. Stat. § 24-4.1-102.
- 59 Colo. Rev. Stat. § 18-3-203.
- 60 Colo. Rev. Stat. § 18-3-204.
- 61 Colo. Rev. Stat. § 18-3-206.
- 62 Colo. Rev. Stat. § 18-6-401.
- 63 Colo. Rev. Stat. § 24-4.1-102.
- 64 *Id.*
- 65 Eva Ontiveros, *What is FGM, where does it happen and why?*, BBC NEWS, <https://www.bbc.co.uk/news/world-47131052>.
- 66 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>.