

# FGM SURVIVOR'S GUIDE

— TO —

# LEGAL REMEDIES

## IN THE STATE OF NEVADA

DEVELOPED FOR [AHA](#) FOUNDATION

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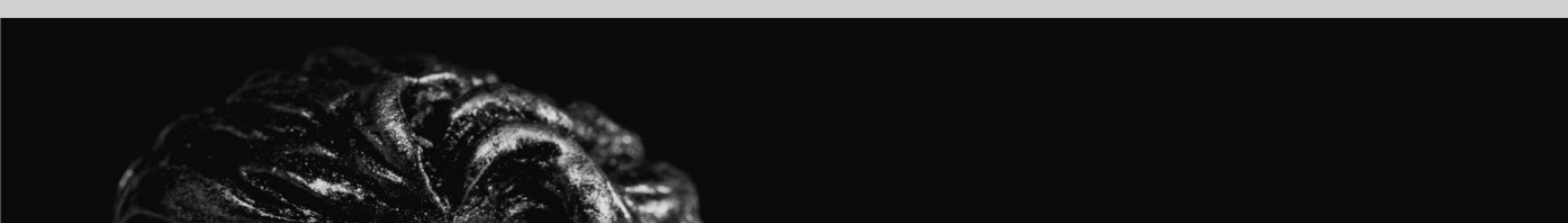
LAST UPDATED: NOVEMBER 8, 2024





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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 whatsoever. 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 Nevada 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 Nevada concerning any specific legal issue. This Guide is up to date as of November 8, 2024.



# 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 Nevada, 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: (i) the estimated number of females who are at risk of or have undergone FGM, and (ii) 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 because a perpetrator can be held criminally liable for both federal and state crimes for the same underlying conduct.

Nevada classified FGM as a crime in 1997 and offers a range of legal remedies through its state criminal court system in relation to FGM. These include specific FGM legislation applicable to any person perpetrating FGM on a child under 18 and taking a child under 18 from Nevada for the purpose of FGM. These are all felonies. It is not a defense that the FGM was required as a matter of cultural custom or that the child, a parent or a guardian of the child 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 in Nevada including assault, battery, kidnapping, false imprisonment, administration of drugs or controlled substances to aid the commission of a felony or crime, sex offences or crimes affecting families (such as domestic violence, abuse, neglect or endangerment of a child). Some of these crimes are felonies and others are misdemeanors. There are time-bars to bringing criminal prosecutions in Nevada, typically ranging from 3 years to 20 years for felonies, and 1 to 2 years for misdemeanors. Although survivors of FGM in Nevada cannot themselves bring the relevant criminal action, they can still provide valuable assistance to the state’s prosecuting attorneys bringing those actions.

In addition to the criminal remedies, Nevada 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 for damages are generally time-barred after two years of the alleged wrongful conduct. If a defendant is convicted of a crime resulting in injury to the survivor, the criminal judgement may serve as conclusive evidence of all the facts necessary to prove civil liability, although additional proof or damages will be required.

The “doctrine of parental immunity”, in other words principles which apply in many states which prevent a child from suing their parent, does not apply in Nevada. As a result, the right of a child to sue a parent is generally without restriction or limitation.

Finally, under Nevada state law, victims of crimes including FGM are entitled to certain rights and protections. These include rights to (i) be informed of their constitutional rights, (ii) be treated fairly and with respect and dignity, free from intimidation, harassment or abuse, (iii) be protected from the defendant and have their (and their family’s) safety taken into consideration when deciding bail conditions, (iv) be informed of all critical stages of the criminal process including conviction, sentencing, parole and release and (v) be heard in public proceedings relating to sentencing, parole and release.

## 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 NEVADA ANTI-FGM LAWS

Nevada's criminal and civil laws offer survivors of FGM a number of different legal pathways to pursue justice. Importantly, Nevada is one of 41 states in the United States that has specifically criminalized the practice of FGM upon minors (under the age of 18). Further, as explained in the sections below, perpetrators of FGM can be prosecuted under Nevada's other criminal laws as well. Survivors of FGM may also seek redress against their perpetrators and receive forms of compensation through civil causes of action.

A criminal action is a lawsuit brought by a public prosecutor, who is an employee of the federal, state, or local government. Accordingly, criminal prosecutions against perpetrators (the **"defendant"**) of FGM under Nevada-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 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 NEVADA

## CRIMINAL LAWS AND STATUTES

In 1997, Nevada criminalized FGM of a female under the age of 18.<sup>2</sup> Notable features of the anti-FGM legislation include felony charges, prosecution of the practitioner, prosecution of the parents, and the exclusion of culture as a defense.<sup>3</sup> If convicted, the offense is punishable by 2 to 10 years in jail and a fine of up to \$10,000 upon conviction.<sup>4</sup>

Perpetrators of FGM can also be prosecuted under the general criminal law principles of Nevada. A perpetrator of FGM may be charged with the following crimes: crimes against persons (assault, battery, kidnapping, false imprisonment, etc.)<sup>5</sup>, sex offenses (lewdness with a child)<sup>6</sup>, crimes affecting family relationships and children (abuse, neglect, or endangerment of a child)<sup>7</sup>, and anticipatory crimes (conspiracy and solicitation)<sup>8</sup>. These offenses are set out below.

The legal claim should be commenced within the limitation period (as laid out in the table below) or risk being time-barred.

### Statute of Limitations (in relation to offenses mentioned in this guide)

Offense	Limitation Period
Felonies <sup>9</sup>	<p>Within 3 years after commission of the offense; or</p> <p>after the discovery of the offense if carried out in secrecy; or</p> <p>within 4 years after the victim discovers or reasonably should have discovered the offense if the victim was under the age of 18 at the time of the offense; or</p> <p>within 20 years after the commission of the offense if it is for sexual assault.</p>
Gross and Simple Misdemeanors <sup>10</sup>	<p>Within 2 years after commission of the offense for gross misdemeanors; or</p> <p>after the discovery of the offense if carried out in secrecy; or</p> <p>within 1 year after commission of the offense for any other misdemeanors or after the discovery of the offense if carried out in secrecy.</p>
Sexual abuse of a child (including FGM) <sup>11</sup>	<p>Before the age of 36 if the victim is or should have been aware of the offense or the age of 43 if she is not aware of the offense by the date on which she reaches the age of 36.</p>



## A) Female Genital Mutilation of a Child

In Nevada, FGM is defined as either directly performing, assisting, or encouraging the mutilation of a female child's genitalia, or taking a child out of the state for the purpose of such mutilation.<sup>12</sup> The act is classified as a category B felony, punishable by 2 to 10 years in jail and a fine of up to \$10,000.<sup>13</sup>

There are specific defenses that cannot be used in court. For example, it is not a valid defense that the mutilation is necessary due to cultural customs, nor is it a defense that consent was given by the child, parent, or guardian.<sup>14</sup> The FGM statute defines a "child" as anyone under the age of 18 and "mutilates the genitalia of a female child" refers to the partial or total removal of the clitoris, vulva or labia for nonmedical reasons.<sup>15</sup>

## B) Crimes Against Persons:

### I. Assault — NEV. REV. STAT. ANN. § 200.471

The law defines "assault" as unlawfully attempting to use physical force against someone or intentionally causing another person to fear immediate bodily harm.<sup>16</sup> The punishment for assault will depend on the circumstances. If the assault does not involve the use of a deadly weapon or the ability to use one, it is classified as a misdemeanor which is punishable by a fine of not more than \$1,000, or by 6 months imprisonment, or both.<sup>17</sup> If a deadly weapon is used, or the person has the ability to use one, it is classified as a category B felony which is punishable by 1 to 6 years imprisonment or a fine of up to \$5,000, or both.<sup>18</sup>

### II. Battery — NEV. REV. STAT. ANN. § 200.481

Under Nevada law, "battery" is defined as any willful and unlawful use of force or violence upon the person of another.<sup>19</sup> The punishment for battery committed by an adult upon a child varies depending on the circumstances.<sup>20</sup> If the battery is not committed with a deadly weapon and does not result in substantial bodily harm, it is classified as a misdemeanor and punishable as mentioned above.<sup>21</sup> If the battery does not involve a deadly weapon but still results in substantial bodily harm or strangulation, it is classified as a category C felony and punishable by 1 to 6 years in jail and a fine of up to \$10,000.<sup>22</sup>

Where a deadly weapon is used, the classification changes to a category B felony.<sup>23</sup> If no substantial bodily harm occurs, the punishment is 2 to 10 years imprisonment or a fine of up to \$10,000, or both.<sup>24</sup> If substantial bodily harm occurs or the battery involves strangulation, the penalty increases to 2 to 15 years, with the same maximum fine.<sup>25</sup>

### III. Kidnapping - Nev. Rev. Stat. Ann. § 200.310 and Kidnapping in the First Degree — Nev. Rev. Stat. Ann. § 200.320

First-degree kidnapping occurs when a person seizes or confines another individual with the intent to hold them for ransom, commit sexual assault, extortion, robbery, inflict substantial bodily harm or to extract money or valuables for their return.<sup>26</sup> This includes leading or taking a minor with the intent to imprison them away from their lawful guardians or exploit them or subject them to any unlawful act.<sup>27</sup> First degree kidnapping is a category A felony.<sup>28</sup>

If the victim suffers substantial bodily harm, the penalties for first-degree kidnapping include life imprisonment without parole, life with parole eligibility after 15 years, or a 40-year sentence with parole after 15 years.<sup>29</sup> Where the victim suffers no substantial bodily harm, the penalties are life with parole after 5 years or a 15-year term with parole after 5 years.<sup>30</sup>



A victim's consent to a first or second-degree kidnapping is not a defense to the offense where the victim is under the age of 18.<sup>31</sup>

#### **IV. Kidnapping in the Second Degree — NEV. REV. STAT. ANN. § 200.330**

Second-degree kidnapping involves willfully seizing or kidnapping another person without legal authority, intending to secretly imprison them within the state or transport them out of the state.<sup>32</sup> It is a category B felony which is punishable by 2 to 15 years imprisonment and a fine of up to \$15,000.<sup>33</sup>

#### **V. Aiding and Abetting Kidnapping — NEV. REV. STAT. ANN. § 200.340**

A person who aids and abets first-degree kidnapping is guilty of a category A felony and faces the same penalties as those for first-degree kidnapping.<sup>34</sup> Aiding and abetting second-degree kidnapping is a category B felony to which the same penalties as for second-degree kidnapping apply.<sup>35</sup>

#### **VI. Administration of Drug to Aid Commission of Felony — NEV. REV. STAT. ANN. § 200.405**

A person who administers to another person, chloroform, laudanum or any controlled substance, anesthetic or intoxicating or emetic agent, with the intent to assist in committing a felony is guilty of a category B felony.<sup>36</sup> This offense carries a punishment of 1 to 10 years imprisonment.<sup>37</sup>

#### **VII. Administration of a Controlled Substance to Aid Commission of a Crime of Violence — NEV. REV. STAT. ANN. § 200.408**

A person who administers a controlled substance to another without their knowledge, intending to facilitate a violent crime against that person or their property, is guilty of a category B felony.<sup>38</sup> This offense is punishable by 1 to 20 years imprisonment.<sup>39</sup>

"Controlled substances" include flunitrazepam and gamma-hydroxybutyrate.<sup>40</sup> A "crime of violence" refers to any offense involving force or threats against a person or property, or any felony where there is a substantial risk of force being used.<sup>41</sup> "Without a person's knowledge" means the individual is unaware that a substance has been given to them.<sup>42</sup>

#### **VIII. False Imprisonment — NEV. REV. STAT. ANN. § 200.460**

False imprisonment is defined as unlawfully confining or detaining someone without legal authority.<sup>43</sup> A person convicted of false imprisonment must pay damages to the victim and is generally guilty of a gross misdemeanor.<sup>44</sup> If the offense is committed by a current prisoner without a deadly weapon, or by anyone using a deadly weapon, the conviction is classified as a category B felony, punishable by 1 to 6 years imprisonment.<sup>45</sup> If the offense involves using the victim as a shield or to evade arrest, it remains a category B felony, with a punishment of 1 to 15 years imprisonment.<sup>46</sup> Finally, if a prisoner in lawful custody uses a deadly weapon during the offense, the penalty is also a category B felony, with a punishment of 1 to 20 years imprisonment.<sup>47</sup>

### **C) Sex Offenses**

#### **I. Lewdness with a Child Under the Age of 16 — NEV. REV. STAT. ANN. § 201.230**

A person aged 18 or older can be charged with lewdness with a child if they willfully commit lewd acts on a child under the age of 16 with the intent to arouse or satisfy sexual desires – this excludes acts of sexual assault.<sup>48</sup> If the child is under the age of 14, this offense is classified as a category A felony, resulting in life imprisonment with the possibility of parole after 10 years, along with a fine of up to \$10,000.<sup>49</sup> If the child is aged 14 or 15, it is classified as a category B felony, carrying a prison sentence



of 1 to 10 years and the same potential fine.<sup>50</sup> If a person has prior convictions for similar offenses against children, they may face life imprisonment without parole.<sup>51</sup>

Minors under the age of 18 who commit lewd acts on a child under the age of 14, other than sexual assault, are guilty of a delinquent act rather than a felony.<sup>52</sup>

## **D) Crimes Affecting Family Relationships and Children**

### **I. Domestic Violence — NEV. REV. STAT. ANN. § 33.018**

Domestic violence is defined as specific acts committed against a spouse, former spouse, family member, individuals in a dating relationship, or those sharing a child. These acts include battery, assault, coercion, sexual assault, and conduct intended to harass and can involve behaviors like stalking, arson, trespassing, property destruction, injuring or killing animals, and burglary to name a few. False imprisonment is included in this definition. It does not apply to siblings, except in custodial or guardianship relationships, or to cousins under similar circumstances.<sup>53</sup>

A perpetrator of FGM can be prosecuted for domestic violence and for related crimes such as assault, battery and false imprisonment.

### **II. Battery Which Constitutes Domestic Violence — NEV. REV. STAT. ANN. § 200.485**

Under Nevada law, penalties for domestic violence-related battery depend on the number of offenses and specific circumstances.<sup>54</sup> For a first offense within seven years, the offender faces misdemeanor charges, with penalties including 2 days and up to 6 months in jail, up to 120 hours of community service, and a \$200 to \$1,000 fine.<sup>55</sup> For a second offense within the same timeframe, the penalties increase to: 20 days and up to 6 months in jail, 200 hours of community service, and a \$500 to \$1,000 fine.<sup>56</sup> A third offense within the seven year period is classified as a category B felony, resulting in 1 to 6 years imprisonment and a \$1,000 to \$5,000 fine.<sup>57</sup>

If the battery involves strangulation, it becomes a category C felony and punishable by 1 to 6 years in jail and a fine of up to \$10,000.<sup>58</sup> Where the offender has been previously convicted of a domestic violence related felony or domestic violence battery with the use of a deadly weapon, the penalty escalates to a category B felony and is punishable by 2 to 15 years in jail, and a fine of \$2,000 to \$5,000, and if the battery results in substantial bodily harm, it is treated as a category B felony which is punishable by 1 to 6 years imprisonment and a \$1,000 to \$5,000 fine.<sup>59</sup> The penalties vary if the victim is pregnant. For the first offense against a pregnant victim, the offender faces a gross misdemeanor charge, with up to 20 days imprisonment and a \$500 to \$1,000 fine.<sup>60</sup> For any subsequent offense, the penalty escalates to a category B felony.<sup>61</sup>

These penalties apply unless a greater penalty is applicable under Nev. Rev. Stat. Ann. § 200.481.

### **III. Abuse, Neglect or Endangerment of Child — NEV. REV. STAT. ANN. § 200.508**

A person who causes a child under the age of 18 to suffer unjustifiable physical pain or mental suffering through abuse or neglect faces serious legal consequences.<sup>62</sup> If substantial harm results, the penalties vary. If the child is under 14 and the harm is due to sexual abuse or exploitation, the offender is guilty of a category A felony, punishable by life in prison with parole after 15 years.<sup>63</sup> In other cases of substantial harm, the offender faces a category B felony, with prison time ranging from 2 to 20



years.<sup>64</sup> If no substantial harm results, the consequences depend on the offender's criminal history.<sup>65</sup> A first-time offender will face a category B felony with penalties of 1 to 6 years imprisonment while repeat offenders receive 2 to 15 years for the same charge.<sup>66</sup>

Individuals responsible for a child's welfare who allow or permit the child to suffer unjustifiable physical pain or mental suffering face severe penalties. If substantial harm occurs, they are subject to the same category A or B felony charges mentioned in this section.<sup>67</sup> If no substantial harm occurs, first-time offenders are guilty of a gross misdemeanor, while repeat offenders face a category C felony.<sup>68</sup> The law defines "abuse or neglect" as nonaccidental physical or mental injury, sexual abuse, or negligent treatment that threatens a child's health or welfare.<sup>69</sup> "Allow" or "permit" abuse refers to failing to act to prevent it when aware of the situation.<sup>70</sup>

## E) Anticipatory Crimes

### I. Solicitation — NEV. REV. STAT. ANN. § 199.500

A person who solicits another to commit kidnapping or arson is guilty of a gross misdemeanor if no crime actually results from their action.<sup>71</sup> However, if someone solicits another to commit murder, even without a resulting crime, this is classified as category B felony carrying a punishment of 2 to 15 years imprisonment and a fine of up to \$10,000.<sup>72</sup>

### II. Conspiracy — NEV. REV. STAT. ANN. § 199.480

When two or more individuals conspire to commit serious crimes such as murder, robbery, sexual assault, each conspirator is guilty of a category B felony.<sup>73</sup> For conspiracies relating to robbery, sexual assault, kidnapping, arson, involuntary servitude or trafficking, the punishment ranges from 1 to 6 years imprisonment with a possible fine of up to \$5,000.<sup>74</sup> If the conspiracy is to commit murder, the prison sentence increases to between 2 and 10 years.<sup>75</sup> For conspiracies related to less serious offenses, such as fraud, false arrest, or any act harmful to public health or morals, each conspirator is guilty of a gross misdemeanor.<sup>76</sup> Importantly, it is not necessary to prove that any overt act was done for a conspiracy to occur.<sup>77</sup>



## CIVIL CAUSES OF ACTION

While Nevada criminalizes FGM and authorizes the state to enforce civil child welfare laws against perpetrators of FGM<sup>78</sup>, Nevada does not have a specific civil cause of action related to FGM. Nevertheless, the following civil causes of action could potentially be available under Nevada common law to survivors of FGM.

### a. Assault and Battery

An “assault” requires the defendant to cause the plaintiff to feel apprehension of harmful or offensive contact.<sup>79</sup> An assault is a ground for an award of nominal or compensatory damages and does not require proof of “serious emotional distress.”<sup>80</sup>

A “battery” is a successful attempt to carry out an assault. A defendant is subject to civil liability to a plaintiff for battery if (i) the defendant acts intending to cause a harmful or offensive contact with another, and (ii) the action results in a harmful contact directly or indirectly.<sup>81</sup>

### b. False Imprisonment

False imprisonment is the restraint of another’s liberty without sufficient cause. The intent to confine someone is an essential element of a false imprisonment claim, whereas submission to the verbal direction of another, unaccompanied by force or threats, does not constitute false imprisonment.<sup>82</sup> In other words, “[w]here no force or violence is actually employed, the submission of the [plaintiff] must be to a reasonably apprehended force.”<sup>83</sup>

### c. Intentional Infliction of Emotional Distress

In order to establish “intentional infliction of emotional distress”, a plaintiff must show (i) that the defendant’s conduct was extreme or outrageous with either the intention of, or reckless disregard for, causing emotional distress to the plaintiff, and (ii) that the plaintiff suffered severe or extreme emotional distress as a result of the defendant’s conduct.<sup>84</sup> Extreme and outrageous conduct is behavior that is outside all possible bounds of decency and is regarded as utterly intolerable in a civilized community, whereas persons must be expected and are required to be hardened to occasional acts that are inconsiderate and unkind. Even if the defendant’s actions could be considered “extreme or outrageous”, the plaintiff still has the burden to establish that she actually suffered extreme or severe emotional distress.<sup>85</sup>

### d. Negligent Infliction of Emotional Distress

Nevada courts recognize that the negligent infliction of emotional distress can be considered an element of the damage sustained by the negligent acts committed against a plaintiff.<sup>86</sup> Thus, a cause of action for negligent infliction of emotional distress has essentially the same elements as a cause of action for negligence: (i) duty owed by the defendant to the plaintiff, (ii) breach of that duty by the defendant, (iii) the breach is the direct and proximate cause of the plaintiff’s emotional distress, and (iii) damages (i.e., emotional distress).<sup>87</sup>

Relatives of an FGM survivor may also have a cause of action against the defendant where (i) a defendant’s negligence causes a third party’s death or serious injury, (ii) the relative observes the death or serious injury, and (iii) the relative’s emotional distress causes physical manifestations.<sup>88</sup>

Please also note the following:



### **e. Statute of Limitations**

Any civil action to recover damages for injuries to a person caused by a wrongful act or neglect must be commenced within two years of the alleged wrongful conduct or neglect.<sup>89</sup>

### **f. Criminal Conviction of Defendant**

If a defendant has been convicted of the crime which resulted in injury to the plaintiff, the judgment of conviction may serve as conclusive evidence of all facts necessary to impose civil liability for the injury.<sup>90</sup> However, the plaintiff must still prove damages by way of testimonial, documentary, or other tangible evidence regarding the plaintiff's physical and/or mental injuries.

### **g. No Parental Immunity**

The "doctrine of parental immunity" generally prevents a child from suing their parent for negligent acts that cause injury to their children, but not for intentional or malicious acts (e.g., sexual abuse). The Nevada Supreme Court has held that there are no constitutional or statutory provision which compels the application of the doctrine of parental immunity (as defined above) in Nevada. Thus, because the doctrine has not been adopted in Nevada, the right of the child to sue a parent in tort is without restriction or limitation.<sup>91</sup>

### **h. Punitive Damages Available**

Punitive damages (i.e., additional damages) can be recovered by the plaintiff if the trier of fact (a judge or jury, depending on the circumstances) is convinced by clear and convincing evidence that the defendant is guilty of fraud, oppression, or malice.<sup>92</sup>



# RIGHTS OF CRIME VICTIMS IN NEVADA

## Crime Victims are Entitled to Protection under the Nevada Constitution

Victims of crimes, including victims of FGM, are guaranteed enforceable rights under Article 1, Section 8A of the Nevada Constitution as well as under the Protection of Victims and Witnesses Act and the Sexual Assault Survivors' Bill of Rights, detailed below. In addition to other rights that they may have under legislation, the Nevada Constitution grants victims of crime various rights, which include (but are not limited to) the following:

- (1) a right to be informed of their constitutional rights;
- (2) a right to be treated with fairness and respect for his or her privacy and dignity and to be free from intimidation, harassment and abuse throughout the justice process;
- (3) a right to be protected from the defendant and persons acting on behalf of the defendant;
- (4) a right to have the safety of the victim and the victim's family considered as a factor in fixing the amount of bail and release conditions for the defendant;
- (5) a right to prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim's family;
- (6) a right to refuse an interview or deposition request, unless under court order, and to set reasonable conditions on the conduct of any such interview to which the victim consents;
- (7) a right to confer with the prosecutor, upon request, regarding the case;
- (8) a right, upon request, to notice of all public, parole or other postconviction release proceedings;
- (9) a right to be heard, upon request, at any public proceeding involving release or sentencing and at any parole proceeding;
- (10) a right to the timely disposition of the case following the arrest of the defendant;
- (11) a right to be informed, upon request, of the conviction, sentence, place of incarceration of the defendant, the scheduled release date of the defendant and the release of or the escape by the defendant from custody; and
- (12) a right to the prompt return of property when it is no longer needed as evidence.<sup>93</sup>

These rights can be enforced by the victim or if the victim is dead or incapacitated, by the victim's spouse, parent, child or other lawful representative.



## Protection of Victim and Witnesses Act - Nevada Revised Statutes, Chapter 178, Section 569

### *A) Definition of a "victim of a crime" - NEV. REV. STAT. ANN. § 178.569*

A "victim of a crime" means a person against whom a crime has been committed, or a person who has been injured or killed as a result of the commission of a crime. It includes the relatives of a victim.<sup>94</sup>

### *B) Confidentiality of personal information - NEV. REV. STAT. ANN. § 178.5691*

A victim of a crime has the right to have all personal information kept confidential, whether the information concerns themselves, a relative, a witness or any other person. Such personal information includes, but is not limited to, a current or former address.<sup>95</sup>

### *C) Investigation by law enforcement and adequate measures of protection - NEV. REV. STAT. ANN. § 178.5692.*

A victim of a crime who is cooperating with the prosecution in a criminal case, and reasonably believes that they may be subject to threats of or actual harm, is entitled to make a written request and upon receiving such request law enforcement officials must investigate the circumstances, take adequate measures to protect the victim or witness, and keep the victim informed of the level of protection.<sup>96</sup>

### *D) Intercession by law enforcement upon harassment by employer - NEV. REV. STAT. ANN. § 178.5694*

If the victim is being harassed, intimidated or subjected to conflicting requirements by his or her employer such that it becomes difficult for them to assist in the investigation or cooperate with the prosecution, the victim can request to have law enforcement intercede on his or her behalf to minimize any loss of pay or other benefits resulting from his or her appearances in court.<sup>97</sup>

### *E) Protection during legal proceedings and return of property - NEV. REV. STAT. ANN. § 178.5696*

During legal proceedings, the victim of a crime has a right to a secure and separate waiting area which is not used by members of the jury, the defendant or the defendant's family and friends.<sup>98</sup> A victim is also entitled to (i) be given a list describing their stolen or personal property held in custody by the court upon making a written request and (ii) have his or her personal property returned quickly once it is no longer needed for evidence.<sup>99</sup>

### *F) Information on the defendant - NEV. REV. STAT. ANN. § 178.5698*

Upon a victim's request, he or she is entitled to be informed of the defendant's whereabouts and circumstances, including (i) if the defendant is released from custody at any time before or during trial (ii) if the defendant is released, the amount of bail required (iii) the final disposition of the criminal case<sup>100</sup> and (iv) if the offense committed is a felony, of the defendant's release from prison.<sup>101</sup>

## Sexual Assault Survivors' Bill of Rights - Nevada Revised Statutes, Chapter 178A

### *A) Definition of a "survivor" - NEV. REV. STAT. ANN. § 178A.140*

A "survivor" is defined as a person who is a victim of sexual assault, or if the victim is incapacitated, deceased or a minor, the guardian or parent of the victim.<sup>102</sup> It is likely that the definition of "sexual assault" includes FGM.<sup>103</sup>



***B) Application - NEV. REV. STAT. ANN. § 178A.160***

The Sexual Assault Survivors' Bill of Rights (the "Survivors' Bill of Rights") applies whenever the survivor is subject to a medical examination or an interview by a law enforcement official or prosecutor.<sup>104</sup>

***C) Rights relating to forensic medical examination and interviews by law enforcement - NEV. REV. STAT. ANN. § 178A.170-200***

Before the medical examination or interview begins, the survivor is entitled to be informed of his or her rights pursuant to the Survivors' Bill of Rights.<sup>105</sup>

A survivor has the right to consult with an advocate and to designate an attendant to provide support during a medical examination or any interview.<sup>106</sup> If a survivor makes a request for such consultation, the medical provider or law enforcement official must summon the advocate or attendant *before* the medical examination or interview is commenced.<sup>107</sup> If the advocate or attendant cannot be summoned in a timely manner before a medical examination, the survivor is entitled to be informed of the consequences of delaying the examination.<sup>108</sup>

The survivor must not be required to pay any expense relating to the medical examination.<sup>109</sup>

A survivor is also entitled to select the gender of the law enforcement official conducting their interview. If an official of the gender of their choosing is not available, they can only be interviewed by an official of a different gender with their consent.<sup>110</sup>

***D) Right to counsel - NEV. REV. STAT. ANN. § 178A.210***

A survivor has the right to have counsel present during any medical examination, interview, investigation or any interaction with the legal or criminal justice system within Nevada.<sup>111</sup>

***E) Genetic marker analysis, forensic/biological evidence - NEV. REV. STAT. ANN. § 178A.220, 230, 260, 265 & 280.***

A survivor has the right to transport, preservation and storage of, prompt analysis of, and information regarding sexual assault forensic evidence, and to be informed of the results of genetic marker analysis of such forensic evidence.<sup>112</sup>

A survivor also has the right not to have his or her DNA profile included in any database and the right not to have his or her biological evidence shared or disclosed or used for any purpose other than in connection with the investigation or prosecution of the sexual assault.<sup>113</sup>

A survivor is entitled to receive copies of reports, evidence and other information related to the sexual assault.<sup>114</sup>

## **Victims of Crime Program, Nevada Revised Statutes, Chapter 217**

The Victim Compensation and Assistance Fund financially supports programs of public and private agencies that assist and compensate victims of crime.

Licensed health care providers who agree to the victim compensation program rules may receive program funds for providing health and medical services to a victim. However, such providers cannot (subject to some exceptions) collect or attempt to collect any payment for the same health and medical services from the victim.



## 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.<sup>115</sup> In addition, FGM is often followed by early marriage at the detriment of the survivor's education and career.<sup>116</sup>

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.

### FURTHER INFORMATION

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





## ANNEX

## REFERENCES

- 1 <https://www.un.org/en/observances/female-genital-mutilation-day>.
- 2 NEV. REV. STAT. ANN. § 200.5083.
- 3 NEV. REV. STAT. ANN. § 200.5083(2).
- 4 NEV. REV. STAT. ANN. § 200.5083(1).
- 5 NEV. REV. STAT. ANN. § 200.
- 6 NEV. REV. STAT. ANN. § 201.230.
- 7 NEV. REV. STAT. ANN. §§ 33.018, 200.485, 200.508.
- 8 NEV. REV. STAT. ANN. §§ 199.500; 199.480.
- 9 NEV. REV. STAT. ANN. §§ 171.085(1), (2) and (4), 171.095(1)(a).
- 10 NEV. REV. STAT. ANN. §§ 171.090(1) and (2), 171.095(a).
- 11 NEV. REV. STAT. ANN. § 171.095(1)(b).
- 12 NEV. REV. STAT. ANN. § 200.5083.
- 13 NEV. REV. STAT. ANN. § 200.5083(1).
- 14 NEV. REV. STAT. ANN. § 200.5083(2).
- 15 NEV. REV. STAT. ANN. § 200.5083(3).
- 16 NEV. REV. STAT. ANN. § 200.471(1) and (2).
- 17 NEV. REV. STAT. ANN. § 193.150.
- 18 NEV. REV. STAT. ANN. § 200.471(2).
- 19 NEV. REV. STAT. ANN. § 200.481(1)(a).
- 20 NEV. REV. STAT. ANN. § 200.481(2).
- 21 NEV. REV. STAT. ANN. § 200.481(2)(a).
- 22 NEV. REV. STAT. ANN. § 200.481(2)(b).
- 23 NEV. REV. STAT. ANN. § 200.481(2)(c).
- 24 *Ibid.*
- 25 *Ibid.*
- 26 NEV. REV. STAT. ANN. § 200.310(1).
- 27 *Ibid.*
- 28 NEV. REV. STAT. ANN. § 200.320.
- 29 NEV. REV. STAT. ANN. § 200.320(1).
- 30 NEV. REV. STAT. ANN. § 200.320(2).
- 31 NEV. REV. STAT. ANN. § 200.350(2).
- 32 NEV. REV. STAT. ANN. § 200.3330.
- 33 *Ibid.*
- 34 NEV. REV. STAT. ANN. § 200.340(1).
- 35 NEV. REV. STAT. ANN. § 200.340(2).
- 36 NEV. REV. STAT. ANN. § 200.405.
- 37 *Ibid.*
- 38 NEV. REV. STAT. ANN. § 200.408(1).
- 39 *Ibid.*
- 40 NEV. REV. STAT. ANN. § 200.408(2)(a).
- 41 NEV. REV. STAT. ANN. § 200.408 (2)(b).
- 42 NEV. REV. STAT. ANN. § 200.408(2)(c).
- 43 NEV. REV. STAT. ANN. § 200.460(1).
- 44 NEV. REV. STAT. ANN. § 200.460(2).
- 45 NEV. REV. STAT. ANN. § 200.460(3).
- 46 NEV. REV. STAT. ANN. § 200.460(4).
- 47 NEV. REV. STAT. ANN. § 200.460(5).
- 48 NEV. REV. STAT. ANN. § 201.230 (1)(a).
- 49 NEV. REV. STAT. ANN. § 201.230(2).
- 50 NEV. REV. STAT. ANN. § 201.230(3).
- 51 NEV. REV. STAT. ANN. § 201.230(4).
- 52 NEV. REV. STAT. ANN. § 201.230(5).
- 53 NEV. REV. STAT. ANN. § 33.018(1) and (2).
- 54 NEV. REV. STAT. ANN. § 200.485(1).
- 55 NEV. REV. STAT. ANN. § 200.485(1)(a).
- 56 NEV. REV. STAT. ANN. § 200.485(1)(b).
- 57 NEV. REV. STAT. ANN. § 200.485(1)(c).
- 58 NEV. REV. STAT. ANN. § 200.485(2).
- 59 NEV. REV. STAT. ANN. § 200.485(3) and (5).
- 60 NEV. REV. STAT. ANN. § 200.485(4)(a).
- 61 NEV. REV. STAT. ANN. § 200.485(4)(b).
- 62 NEV. REV. STAT. ANN. § 200.508(1).
- 63 *Ibid.*
- 64 *Ibid.*
- 65 NEV. REV. STAT. ANN. § 200.508(1)(b).
- 66 *Ibid.*
- 67 NEV. REV. STAT. ANN. § 200.508(2).
- 68 *Ibid.*
- 69 NEV. REV. STAT. ANN. § 200.508(4)(a).
- 70 NEV. REV. STAT. ANN. § 200.508(4).
- 71 NEV. REV. STAT. ANN. § 199.500(1).
- 72 NEV. REV. STAT. ANN. § 199.500(2).
- 73 NEV. REV. STAT. ANN. § 199.480(1).
- 74 NEV. REV. STAT. ANN. § 199.480(1)(a).
- 75 NEV. REV. STAT. ANN. § 199.480(1)(b).
- 76 NEV. REV. STAT. ANN. § 199.480(3).
- 77 NEV. REV. STAT. ANN. § 199.490.
- 78 Nevada child welfare agencies are empowered to protect children from abuse and neglect, including in instances of sexual abuse. “[S]exual abuse” is defined to include FGM. Nev. Rev. Stat. Ann. § 432B.100(7) (“Mutilation of the genitalia of a female child, aiding, abetting, encouraging or participating in the mutilation of the genitalia of a female child, or removal of a female child from this State for the purpose of mutilating the genitalia of the child under NRS 200.5083”).
- 79 *Prosser and Keaton on Torts* §10 at 43 (5th Ed. 1984); *see also Olivero v. Lowe*, 116 Nev. 395, 400 (2000).
- 80 *Olivero*, 116 Nev. at 400 (citing *Harrison v. Mitchell*, 391 So. 2d 1038, 1040 (Ala. Civ. App. 1980) (holding that a jury may award nominal or compensatory damages for an assault where the only injury was insult, indignity, hurt feelings, mental suffering, and fright caused by the assault)).
- 81 *Daleiden v. Pereira*, 2019 Nev. Dist. LEXIS 2692, at \*4; *Restatement (Second) of Torts* §13 (1965).
- 82 *Lerner Shops v. Marin*, 83 Nev. 75, 78-79, (1967).
- 83 *May v. Cal. Hotel & Casino*, 2016 Nev. App. Unpub. LEXIS 516, at \*2 (internal citation omitted).
- 84 *See, e.g., Franchise Tax Bd. Of Cal. V. Hyatt*, 335 P.3d 125 (Nev. 2014); *Dillard Dept. Stores Inc. v. Beckwith*, 115 Nev. 372, 989 P.2d 882 (1999); *Miller v. Jones*, 114 Nev. 1291, 970 P.2d 571 (1998).
- 85 *Daleiden*, 2019 Nev. Dist. LEXIS 2692 at \*6.
- 86 *Shoen v. Amerco, Inc.*, 111 Nev. 735, 748, 896 P.2d 469, 477 (1995).
- 87 *Abrams v. Schneider*, 2018 Nev. Dist. LEXIS 19, at \*8-9.
- 88 *See, e.g., Droge v. AAAA Two Star Towing, Inc.*, 2020 Nev. App. LEXIS 3, at \*312 (Nev. 2020); *State, Dep’t of Transp. v. Hill*, 114 Nev. 810, 815 (1998), *overruled on other grounds by Grotts v. Zahner*, 115 Nev. 339, 341, (1999).
- 89 NEV. REV. STAT. ANN. 11.190(4)(e).
- 90 NEV. REV. STAT. ANN. § 41.133.
- 91 *Rupert v. Stienne*, 90 Nev. 397 (1974).
- 92 *Daleiden*, 2019 Nev. Dist. LEXIS 2692 at \*6-7.
- 93 NEV. CONST. Art. 1, § 8A(1).
- 94 NEV. REV. STAT. ANN. § 178.569.
- 95 NEV. REV. STAT. ANN. § 178.5691.
- 96 NEV. REV. STAT. ANN. § 178.5692.
- 97 NEV. REV. STAT. ANN. § 178.5694.
- 98 NEV. REV. STAT. ANN. § 178.5696.
- 99 *Ibid.*
- 100 NEV. REV. STAT. ANN. § 178.5698(1).
- 101 NEV. REV. STAT. ANN. § 178.5698(5).
- 102 NEV. REV. STAT. ANN. § 178A.140.
- 103 NEV. REV. STAT. ANN. § 178A.366 provides that a person is guilty of sexual assault if the person subjects another to sexual penetration against the will of the victim. NEV. REV. STAT. ANN. § 200.364(9) defines “sexual penetration” as cunnilingus, fellatio, or any intrusion, however slight, of any part of a person’s body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. The term does not include any such conduct for medical purposes.
- 104 NEV. REV. STAT. ANN. § 178A.160.
- 105 NEV. REV. STAT. ANN. § 178A.190(5); NEV. REV. STAT. ANN. § 178A.200(5).
- 106 NEV. REV. STAT. ANN. § 178A.170(1); NEV. REV. STAT. ANN. § 178A.200(2).
- 107 NEV. REV. STAT. ANN. § 178A.190(1); NEV. REV. STAT. ANN. § 178A.200(1).
- 108 NEV. REV. STAT. ANN. § 178A.190(2).
- 109 NEV. REV. STAT. ANN. § 178A.190(3).
- 110 NEV. REV. STAT. ANN. § 178A.200(3).
- 111 NEV. REV. STAT. ANN. § 178A.210.
- 112 NEV. REV. STAT. ANN. §§ 178A.220, 178A.230.
- 113 NEV. REV. STAT. ANN. §§ 178A.265, 178A.260.
- 114 NEV. REV. STAT. ANN. § 178A.280.
- 115 Eva Ontiveros, *What is FGM, where does it happen and why?*, BBC NEWS, <https://www.bbc.co.uk/news/world-47131052>.
- 116 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>.