

# FGM SURVIVOR'S GUIDE

TO

# LEGAL REMEDIES

IN THE STATE OF  
OHIO

DEVELOPED FOR [AHA](#) FOUNDATION

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LAST UPDATED: MARCH 10, 2023





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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 Ohio 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 Ohio concerning any specific legal issue. This Guide is up to date as of March 10, 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 Ohio, United States of America.

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

Current federal law provides federal authorities the power to prosecute any person who performs, attempts to perform, facilitates, consents to, or transports a person for the purpose of FGM. Violation of the federal law can result in a fine, imprisonment of up to 10 years, or both. The law also requires government agencies to report the following 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.

Ohio offers a range of legal remedies through its state court system in relation to FGM, including both criminal and civil penalties. In 2019, Ohio recognized FGM of minors (i.e. under the age of 18) as a specific criminal act. The crime is prosecuted as a felony, and the practitioner and anyone who knowingly transports the minor to a facility for the purpose of FGM may be charged. There is no exception for cultural or ritual necessity, and consent of the minor or parent/guardian is not a defense. Perpetrators of FGM, or the parent of the minor who has survived FGM, may also be prosecuted under general criminal law offenses, such as assault, permitting child abuse, endangering children, attempt, or complicity (each depending on the facts of the particular case). Generally, a criminal prosecution is barred unless it is commenced within a certain specified period – for example, the statute of limitations is 6 years for a felony, 2 years for a misdemeanor and 6 months for a minor misdemeanor. In Ohio, where there has been physical or mental abuse of a child younger than 18 (or a child under 21 with a developmental disability), the clock does not start to run until the victim reaches the age of majority, or the abuse is reported to a public children’s services agency or police officer.

In addition to the criminal remedies, Ohio offers FGM survivors additional legal remedies through its state civil court system. Although there are no specific civil causes of action addressing FGM, there are a number of civil causes of action available to survivors of FGM, including assault, battery, civil actions for criminal offenses such as sexual battery (or the criminal act of FGM), false imprisonment, intentional infliction of emotional distress and negligent infliction of emotional distress, and for damages caused by criminal acts of the defendant. In 1984, the courts completely abolished the doctrine of parental immunity, meaning that parents are liable for their acts of negligence against their children. There is also the tort of “childhood sexual abuse” which covers: (i) rape or sexual battery of a child under the age of 18; or (ii) gross sexual imposition or importunity

where the victim is a child under the age of 18 and at the time of the violation the accused has a certain specified relationship with that child (e.g. teacher at their school, parent, etc.). The time period during which a claim must be commenced varies depending on the action – for example, civil claims for assault and battery must be commenced within one year of the later of: (i) the date on which the offense occurred; or (ii) the date on which the plaintiff can establish the identity of the accused.

Under Ohio state law, victims of crimes are entitled to certain rights and protections. For example, pursuant to the Ohio Constitution, victims of crimes (including FGM), have (a) the right to be treated with fairness, dignity and respect; (b) the right to notice of all public proceedings involving the criminal offense (and to be present at such proceedings); (c) the right to protection and return of property from the accused; (d) the right to prompt conclusion of the case without unreasonable delay; (e) the right to confer with the attorney prosecuting the accused; and (f) the right to receive information about their rights as a victim of crime. A member of the victim's family (or another person) may exercise the victim's rights as their representative if the victim is a minor, incapacitated, incompetent or deceased, or if authorized by the victim. There are also obligations for the law enforcement agency investigating the crime and the prosecutor prosecuting the crime to provide the victim with certain types of information. Where a defendant is acquitted, the victim may make a statement about the impact of the offense to the probation officer preparing the presentence investigation report, and may also make a statement about the impact of the offense at sentencing.

## 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 OHIO ANTI-FGM LAWS

Ohio's criminal and civil laws offer survivors of FGM a number of different legal pathways to pursue justice. Importantly, Ohio is one of 41 states in the United States that has specifically criminalized the practice of FGM upon minors. Further, as explained in the sections below, perpetrators of FGM can be prosecuted under Ohio'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 either the federal, state, or local government. Accordingly, criminal prosecutions against perpetrators of FGM under Ohio-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 prosecuting attorneys bringing those actions. For example, FGM survivors may participate in the court proceedings, as the court will permit the FGM victim or their legal representative to make an oral statement during the hearing. In addition, if the defendant is found guilty in a criminal case, they may be punished with fines, time in prison, or both.

In addition to the criminal remedies, Ohio also 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, false imprisonment and intentional or negligent infliction of emotional distress. A civil lawsuit is brought by an aggrieved citizen (the "**plaintiff**") either on their own accord or by retaining a legal representative to initiate such action. In FGM cases, the plaintiff is usually the survivor, and 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 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 OHIO

## TABLE OF OFFENSES

In 2019, Ohio criminalized perpetrating FGM on minors. Notable features of the anti-FGM legislation include: felony charges, prosecution of the practitioner, prosecution of the parents, and the exclusion of defenses based on (1) cultural or ritual necessity, (2) consent of the minor, or (3) consent of the parent or guardian of the minor.<sup>2</sup>

Perpetrators of FGM can be prosecuted for the offense pursuant to Ohio's anti-FGM specific legislation and general criminal laws for the following crimes: FGM, Assault, Permitting Child Abuse, Endangering Children, Attempt, and Complicity.

Generally, criminal prosecutions are time-barred, unless commenced within the periods provided in the table below after an offense is committed. However, Ohio tolls or delays the start of the claim period (i.e. the time within which legal action may be commenced) in cases involving physical or mental abuse or neglect of a child younger than 18 years of age or a victim under 21 years of age with a developmental disability.<sup>3</sup> In such instances, the claim period will commence when the victim reaches the age of majority (18 years or older),<sup>4</sup> or the suspected or known neglect or abuse is reported to a public children services agency or a police officer (who is not a parent).<sup>5</sup>

TYPE OF OFFENSE	PENALTY
<b>Felony</b> OHIO. REV. CODE § 2901.13(A)(1)(a)	6 years.
<b>Misdemeanor other than a minor misdemeanor</b> OHIO. REV. CODE § 2901.13(A)(1)(b)	2 years.
<b>Minor Misdemeanor</b> OHIO. REV. CODE § 2901.13(A)(1)(c)	6 months.
<b>[Kidnapping (or conspiracy to commit Kidnapping)]</b> OHIO. REV. CODE §§ 2901.13(A)(3)(a); 2905.01]	20 years.
<b>Misconduct in office by public servant</b> OHIO. REV. CODE § 2901.13(C)	Any time while that public servant remains a public servant, or within 2 years thereafter.



## Crime specific to FGM in Ohio – Ohio. Rev. Code § 2903.32

Ohio's FGM criminal statute prohibits a person from knowingly circumcising, excising, or infibulating any part of the labia majora or labia minora or clitoris of a minor, for non-medical reasons.<sup>6</sup> A person who knowingly transports a minor to a facility or location for the purpose of facilitating the commission of such an offense is also guilty of FGM.<sup>7</sup> Whoever violates this statute is guilty of female genital mutilation, a felony of the second degree.<sup>8</sup>

If convicted, because the crime of FGM is a second-degree felony, the perpetrator may be sentenced to a minimum prison term selected by the court that ranges between two and eight years, and a maximum term equal to the minimum term selected plus fifty percent of such term, and the court may also impose an additional fine of up to \$25,000, in addition to any compensation for economic loss to which the victim may be entitled.<sup>9</sup>

The perpetrator cannot raise as a defense to the prosecution that the crime of FGM was committed out of cultural or ritual necessity, or that the minor, or their parent or guardian consented to the perpetrator's act.<sup>10</sup>

## Other Criminal Causes of Action Available to Survivors of FGM in Ohio

In addition to the FGM-specific crime identified above, perpetrators of FGM in Ohio may also be charged with other crimes, depending on the facts and circumstances in an individual case.

### A) Assault— Ohio. Rev. Code § 2903.13

A person shall be guilty of assault if they knowingly cause or attempt to cause physical harm to another person, or if they recklessly cause serious physical harm to another person.<sup>11</sup> Assault is a first degree misdemeanor, and the penalties can include a prison sentence of up to 180 days, a fine of up to \$1,000 and community control (probation) for up to 5 years. Further, the level of this offense can be elevated to a felony under aggravating circumstances, which may result in a longer mandatory prison term along with any applicable fine.<sup>12</sup>

### B) Permitting Child Abuse— Ohio. Rev. Code § 2903.15

A parent, guardian, custodian, or person having custody of a child under 18 years of age, or of a mentally or physically handicapped child under 21 years of age, is liable under this section for causing serious physical harm to that child, or the death of that child, as a proximate result of permitting the child to be (i) abused, (ii) tortured, (iii) administered corporal punishment or other physical disciplinary measure, or (iv) physically restrained in a cruel manner or for a prolonged period.<sup>13</sup>

If the offense of permitting child abuse results in the death of or causes serious physical harm to the child, the perpetrator may be charged with either a first degree felony for the death of or a third degree felony for the serious physical harm caused to the child.<sup>14</sup> It is an affirmative defense to the offense of permitting child abuse if the defendant did not have readily available a means to prevent the harm to the child or the death of the child, and that the defendant took timely and reasonable steps to summon aid.<sup>15</sup>



### C) Kidnapping— Ohio. Rev. Code § 2905.01

A person is guilty of kidnapping if they intentionally (i) remove another of her liberty, (ii) restrain another of her liberty, and (iii) hold another in a condition of involuntary servitude, either by use of force, threat, or deception and under circumstances that create a substantial risk of serious physical harm to the victim, or in the case of a victim under the age of thirteen or mentally incompetent, by any means and under circumstances that create a substantial to circumstances that create a substantial risk of serious physical harm to the minor victim or cause physical harm to the minor victim.<sup>16</sup>

Kidnapping is a first degree felony, punishable by a minimum prison terms of ten years.<sup>17</sup> However, if the offender releases the victim to a safe place unharmed, then the offense is a second degree felony.<sup>18</sup>

### D) Endangering Children— Ohio. Rev. Code § 2919.22

A person, who is the parent, guardian, custodian, person having custody or control, or person in charge, or acting in the place of a parent of a child under 18 years of age, or a mentally or physically handicapped child under 21 years of age, is liable under this section for creating a substantial risk to the health or safety of that child by violating their duty of care, protection, or support for the child. It is not a violation of such duty of care if the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or disability of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.<sup>19</sup>

No person shall do any of the following to a child under 18 years of age or a child with a mental or physical disability under 21 years of age: abuse the child; torture or cruelly abuse the child; administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner, or for a prolonged period; or repeatedly administer unwarranted disciplinary measures to that child, when there is a substantial risk that the act will seriously impair or retard the child's mental health or development.<sup>20</sup>

A person found guilty of endangering a child may be charged anywhere between a misdemeanor of the first degree to a felony of the second degree.<sup>21</sup> Depending on the circumstances, the offender can face a prison term of up to 11 years,<sup>22</sup> and the court may order the offender to restore the damage caused (where possible) or compensate the victim for any economic loss incurred as a result of the wrong caused by the offender.<sup>23</sup>

### E) Attempt— Ohio. Rev. Code § 2923.02

Any person who, purposely or knowingly - when purpose or knowledge is sufficient culpability for the commission of an underlying offense - engages in conduct that, if successful, would constitute or result in the underlying offense, may be guilty for attempting that offense.<sup>24</sup> The defendant will not be charged with the offense of attempt where they abandon the attempt before completing the underlying offense (e.g. criminal assault).<sup>25</sup>

The perpetrator cannot raise as a defense in the prosecution that, in retrospect, commission of the attempted underlying offense was either factually or legally impossible under the circumstances, if that underlying offense could have been committed had the circumstances been as the actor believed them to be.<sup>26</sup>



Whoever is found guilty of an attempt to commit an underlying offense, other than murder, shall be charged with a crime of the next lesser degree than the offense attempted, and the level of the offense can be elevated in certain circumstances.<sup>27</sup>

## **F) Complicity— Ohio. Rev. Code § 2923.03**

A person is complicit or an accomplice to an offense if they (i) solicit or procure another person to commit the offense; (ii) aid or abet another person in committing the offense; (iii) conspire with another person to commit the offense; or (iv) cause an innocent or irresponsible person to commit the offense.<sup>28</sup>

The perpetrator cannot raise as a defense in the prosecution that no person with whom the accused was an accomplice has been convicted as a principal offender.<sup>29</sup>

A person shall not be convicted of complicity unless an offense to which they are an accomplice is actually committed. However, a person may be convicted of complicity in an attempt to commit an underlying offense (e.g. they can be convicted for being an accomplice to an attempt to commit an act of FGM).<sup>30</sup>

If a perpetrator is found guilty of complicity in the commission of an offense, he or she shall be prosecuted and punished as if he or she were a principal offender.<sup>31</sup> The perpetrator cannot raise as a defense in the prosecution that, prior to the commission of or attempt to commit the offense, the perpetrator terminated his or her complicity under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.<sup>32</sup> The offender may either be charged with complicity or the principal, underlying offense to which they are an accomplice.<sup>33</sup>



## CIVIL CAUSES OF ACTION

Ohio 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, and damages caused by criminal acts<sup>34</sup> (each discussed in detail further below).

### A) Assault

Assault is the willful threat or attempt to harm or touch another person offensively, where the threat or attempt reasonably places that other person in fear of such contact.<sup>35</sup> A defendant's mere words will not constitute an assault.<sup>36</sup> The threat or attempt must be coupled with a definitive act by a person who has the apparent ability to do the harm or to commit the offensive touching.<sup>37</sup> An essential element of assault is that the defendant knew with substantial certainty that his or her action would bring about harmful or offensive contact.<sup>38</sup>

The civil claims must be commenced within one year after the later of the date on which the alleged assault occurred or the date on which the plaintiff learned, or should have learned through the exercise of reasonable diligence, the identity of the defendant.<sup>39</sup>

### B) Battery

Battery is an act with the intent to cause a harmful or offensive bodily contact to another person, which then results in the harmful or offensive bodily contact.<sup>40</sup> In order to be liable for a battery, the harmful or offensive bodily contact must be caused by the defendant's apparent action.<sup>41</sup>

Similar to assault, a civil claim for battery must be commenced within one year of the date the offense was committed or as soon as the plaintiff can establish the identity of the accused, whichever is later.<sup>42</sup>

### C) Civil Actions for Criminal Offenses such as sexual battery

Although Ohio does not recognize the civil wrong ("tort") of sexual battery nor a specific tort for FGM, a plaintiff can sue a defendant in a civil court for damages caused by the criminal act of the defendant.<sup>43</sup> Anyone whose person or property is injured by a criminal act may recover full damages in a civil action unless such a civil action is specifically prohibited by law. Therefore, a victim of FGM may bring a civil action for damages caused by the criminal act of FGM, without having to prove an underlying conviction, and they may also recover punitive or exemplary damages under certain circumstances.<sup>44</sup>

### D) False Imprisonment

False imprisonment occurs where a person intentionally confines another person within a limited area, for any appreciable time, without having the legal right to do so or without that other person's consent.<sup>45</sup> Confinement consists of a "total detention or restraint upon the plaintiff's freedom of movement, imposed by force or threats."<sup>46</sup>

The civil claims must be commenced within one year from the date on which the alleged false imprisonment occurred.<sup>47</sup>

### E) Intentional Infliction of Emotional Distress

Ohio courts recognize the tort of intentional infliction of emotional distress.<sup>48</sup> In order to prove a claim of intentional infliction of emotional distress, the plaintiff must demonstrate that (1) the defendant intended to



cause emotional distress, or knew or should have known that his or her conduct would result in serious emotional distress to the plaintiff; (2) the defendant's conduct was outrageous and extreme beyond all bounds of decency; (3) the defendant's conduct was the proximate cause of the plaintiff's psychological injuries; and (4) the plaintiff's emotional distress was severe and of such a nature that no reasonable person could be expected to endure it.

The plaintiff must commence a claim for intentional infliction of emotional distress within four years from the date the alleged offense occurred, unless the conduct of the accused supports another cause of action in which case the relevant timeframe for that cause of action will apply.<sup>49</sup>

## F) Negligent Infliction of Emotional Distress

Negligent infliction of emotional distress is actionable only if it is accompanied by a physical injury to the plaintiff<sup>50</sup> or if the emotional injuries are severe, debilitating, and reasonably foreseeable.<sup>51</sup> Concurrently, Ohio does not recognize a claim for negligent infliction of serious emotional distress where the distress is caused by the plaintiff's fear of a nonexistent physical peril.<sup>52</sup>

## G) Parent-Child Relationships

### (i) Parental Immunity

In Ohio, parents are liable for their acts of negligence against their children as the doctrine of parental immunity, which protects parents from liability, was abolished by the Ohio Supreme Court in 1984.<sup>53</sup>

### (ii) Childhood Sexual Abuse

The tort of "childhood sexual abuse" is any conduct that constitutes any of the violations listed below, if the victim of the violation is, at the time of the violation, a child under eighteen years of age.<sup>54</sup>

(a) rape<sup>55</sup> or sexual battery;<sup>56</sup>

(b) gross sexual imposition<sup>57</sup> or importuning<sup>58</sup> if, at the time of the violation, any of the following applies:

- The accused is the natural parent, adoptive parent, or stepparent or the guardian, custodian, or person in charge of the victim.
- The victim is in custody of law or a patient in a hospital or other institution, and the accused has supervisory or disciplinary authority over the victim.
- The accused is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards, the victim is enrolled in or attends that school, and the accused is not enrolled in and does not attend that school.
- The accused is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the victim is enrolled in or attends that institution.
- The accused is the victim's athletic or other type of coach, is the victim's instructor or is a person with temporary or occasional disciplinary control over the victim.
- The accused is a mental health professional, the victim is a mental health client or patient, and the accused induces the victim to submit by falsely representing to the victim that the sexual contact involved in the violation is necessary for mental health treatment purposes.
- The victim is confined in a detention facility, and the accused is an employee of that facility.
- The accused is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric.<sup>59</sup>

The civil claims must be commenced within 12 years after the date on which the victim reaches the age of 18.<sup>60</sup>



# RIGHTS OF CRIME VICTIMS IN OHIO

## Crime Victims are Entitled to Protection Under the Ohio Constitution

Victims of crimes, including victims of FGM, are provided enforceable rights under Article 1, Section 10(a) of the Ohio Constitution. A “victim” for these purposes includes any person against whom a criminal offense is committed, and any person who is directly harmed by the commission of the offense. These rights, many of which also exist under Ohio criminal statutes and evidence rules, include:

- (1) the right to be treated with fairness, dignity and respect;
- (2) the right to notice of all public proceedings involving the criminal offense in question, the right for the victim or the victim’s representative to be present at such proceedings and the right to be heard at such proceedings in certain circumstances;
- (3) the right to protection and the return of property from the accused;
- (4) the right to a prompt conclusion of the case without unreasonable delay;
- (5) the right to confer with the attorney prosecuting the accused; and
- (6) the right to receive information about the victim’s rights as a victim of crime.<sup>61</sup>

## Rights of Victims of Crimes - Ohio Rev. Code, Title XXIX § 2930

### A) § 2930.02. Representative of victim

“Victim” means any person who is identified as the victim of a crime or delinquent act in a police report, complaint, indictment or information that provides the basis for prosecution.<sup>62</sup>

“Member of the victim’s family” means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, or other relative designated by the victim or by a court pursuant to Ohio Rev. Code § 2930.02.<sup>63</sup>

A member of the victim’s family or another person may exercise the rights of the victim under Ohio Rev. Code § 2930 as the victim’s representative (i) if the victim is a minor, incapacitated, incompetent or deceased or (ii) if the victim authorizes them to do so.<sup>64</sup>



## **B) § 2930.04. Information provided by law enforcement after contact with victim**

“Crime” means a felony or certain violations of the Ohio Rev. Code, including Ohio Rev. Code § 2903.13.<sup>65</sup>

“Defendant” means any person alleged to be the perpetrator of a crime or delinquent act in a police report, complaint, indictment or information that provides the basis for prosecution.<sup>66</sup>

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:

- (1) an explanation of the victim’s rights under Ohio Rev. Code § 2930;
- (2) information about medical, counseling, housing and other available services;
- (3) information about compensation available to crime victims after an action by the Ohio Attorney General;
- (4) information about other protection that is available to the victim, including court protection orders; and
- (5) contact details of the assigned law enforcement officer and prosecutor and a statement that the victim may contact the law enforcement agency for status updates on the case.<sup>67</sup>

Some or all of this information may be provided by the law enforcement agency in a pamphlet.<sup>68</sup>

## **C) § 2930.06. Information provided by prosecutor**

The investigating law enforcement agency must give the victim notice of any arrests made and whether the defendant is eligible for pre-trial release.<sup>69</sup>

The prosecutor should confer with the victim and provide certain information, including:

- (1) the offense with which the defendant has been charged;
- (2) procedures that the victim must follow if the defendant threatens or intimidates them;
- (3) the procedural steps and scheduled court proceedings in the case and the victim or their representative’s right to be present pursuant to Ohio Rev. Code § 2930.09; and
- (4) details of a motion that may result in a substantial delay in the prosecution of the case.<sup>70</sup>

## **D) § 2930.07 and § 2930.10. Protection of a victim’s identity**

The victim will not be compelled to give testimony in proceedings if there are reasonable grounds to be apprehensive regarding acts or threats of violence by the defendant.<sup>71</sup>

The court shall make a reasonable effort before, during and after court proceedings to minimize unwanted contact between the victim or members of the victim’s family and the defendant.<sup>72</sup>

## **E) § 2930.11. Property of victim**

The investigating law enforcement agency shall promptly return to the victim any property that was taken in the course of the investigation, unless that property is needed as evidence.<sup>73</sup>



## **F) § 2930.12 to § 2930.14. Notice of acquittal or conviction and victim statements**

If asked, the prosecutor must give the victim notice of the defendant's acquittal or conviction.<sup>74</sup>

If the defendant is convicted, the victim may make a statement about the impact of the offense to the probation officer who prepares the presentence investigation report or to the person who prepares the victim impact statement.<sup>75</sup> Any such statement may include:

- (1) an explanation of the physical, psychological or emotional harm suffered by the victim;
- (2) an opinion regarding whether the victim should be compensated for harm caused; and
- (3) the victim's recommendation for an appropriate sanction for the defendant.<sup>76</sup>

The victim may also make a statement about the impact of the offense at sentencing.<sup>77</sup> This may be given in writing prior to the sentencing hearing, orally at the hearing, or both.<sup>78</sup> The court shall consider the victim's statement along with other factors in imposing a sentence.<sup>79</sup>

After sentencing and upon request, the victim shall be given notice of the incarceration of the defendant and an estimate of the date on which the defendant will be released.<sup>80</sup>

The prosecutor shall notify the victim of any motion for early release of the defendant.<sup>81</sup> In determining whether to release a defendant, the court shall permit the victim to make an additional statement concerning the effects of the crime for which the defendant was incarcerated, the circumstances surrounding the crime, the manner in which the crime was perpetrated, and the victim's opinion on whether the defendant should be released.<sup>82</sup>

## **G) § 2930.15. Notice of appeal by defendant**

If asked, the prosecutor must give the victim notice if the defendant files an appeal of the conviction and the following information:

- (1) an explanation of the appeals process and the date of any subsequent court proceedings;
- (2) whether the defendant has been released on bail pending the outcome of the appeal; and
- (3) the result of the appeal.<sup>83</sup>

## **H) § 2930.16. Notice of incarceration or release of defendant**

If requested by the victim, the prosecutor shall notify the victim of any custodial sentence imposed on the defendant and its duration. The victim must also be provided with the details of the custodial agency responsible for the defendant and any subsequent variations of the sentencing including parole or any change of circumstances such as the escape or death of the defendant while in custody.<sup>84</sup>

## **I) § 2930.18. Retaliation by employer against victim**

The victim's employer may not terminate, discharge, discipline or otherwise retaliate against the victim, a member of the victim's family or a victim's representative for participating, at the prosecutor's request, in criminal justice proceedings if the attendance is reasonably necessary to protect the interests of the victim.<sup>85</sup>



## Civil Action for Damages for Criminal Act – Ohio Rev. Code § 2307.60

A victim can bring a civil lawsuit to recover damages from an offender for injuries to a person based on a “criminal act,” unless such an action is specifically prohibited by law.<sup>86</sup> If authorized elsewhere in the law, a victim may also recover attorneys’ fees and punitive or exemplary damages in the same suit.<sup>87</sup>

“Criminal act” is not defined in Ohio Rev. Code § 2307.60, but the term is considered broad enough to cover most criminal violations in Ohio.

Provided the offender was sentenced to death or imprisonment of over one year in criminal proceedings, he or she is precluded from denying any fact that formed part of the judgment in subsequent civil proceedings. This does not apply if the offender can demonstrate that he or she did not have a fair opportunity to litigate the issue.<sup>88</sup>

Recovery in civil proceedings under the Ohio Rev. Code is not available to any victim who:

- (1) is convicted of or pleads guilty to criminal conduct which caused the injury or loss for which relief is claimed;
- (2) is engaged or attempted to engage in an activity that, if prosecuted, would constitute criminal conduct which caused the injury or loss for which relief is claimed; or
- (3) suffered the injury or loss for which relief is claimed as a result of an act of self-defense, defense of another or defense of residence, unless the victim was an “innocent bystander” who had no connection with the conduct that prompted the exercise of self-defense, defense of another or defense of residence.<sup>89</sup>



## 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>90</sup> In addition, FGM is often followed by early marriage at the detriment of the survivor's education and career.<sup>91</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

- <sup>1</sup> <https://www.un.org/en/observances/female-genital-mutilation-day>.
- <sup>2</sup> Ohio Rev. Code § 2903.32.
- <sup>3</sup> Ohio Rev. Code § 2901.13(J).
- <sup>4</sup> Ohio Rev. Code § 2901.13(J)(1).
- <sup>5</sup> Ohio Rev. Code § 2901.13(J)(2).
- <sup>6</sup> Ohio Rev. Code § 2903.32 (A)(1).
- <sup>7</sup> Ohio Rev. Code § 2903.32 (A)(2).
- <sup>8</sup> Ohio Rev. Code § 2903.32 (B).
- <sup>9</sup> Ohio Rev. Code § 2903.32(B); § 2929.14; § 2929.144; and § 2929.18.
- <sup>10</sup> Ohio Rev. Code § 2903.32(D).
- <sup>11</sup> Ohio Rev. Code § 2903.13 (A) and (B).
- <sup>12</sup> Ohio Rev. Code § 2903.13 (C).
- <sup>13</sup> Ohio Rev. Code § 2903.15(A).
- <sup>14</sup> Ohio Rev. Code § 2903.15(C).
- <sup>15</sup> Ohio Rev. Code § 2903.15(B).
- <sup>16</sup> Ohio Rev. Code § 2905.01(B).
- <sup>17</sup> Ohio Rev. Code § 2905.01(C)(1) and (C)(3)(a).
- <sup>18</sup> Ohio Rev. Code § 2905.01(C)(1) and (C)(3)(b).
- <sup>19</sup> Ohio Rev. Code § 2919.22(A).
- <sup>20</sup> Ohio Rev. Code § 2919.22(B).
- <sup>21</sup> Ohio Rev. Code § 2919.22(E).
- <sup>22</sup> Ohio Rev. Code § 2929.14(B)(7)(a)(i).
- <sup>23</sup> Ohio Rev. Code § 2919.22(E)(2)(e), (3).
- <sup>24</sup> Ohio Rev. Code § 2923.02(A).
- <sup>25</sup> Ohio Rev. Code § 2923.02(D).
- <sup>26</sup> Ohio Rev. Code § 2923.02(B).
- <sup>27</sup> Ohio Rev. Code § 2923.02(E)(1), (2).
- <sup>28</sup> Ohio Rev. Code § 2923.03(A).
- <sup>29</sup> Ohio Rev. Code § 2923.03(B).
- <sup>30</sup> Ohio Rev. Code § 2923.03(C).
- <sup>31</sup> Ohio Rev. Code § 2923.03(B).
- <sup>32</sup> Ohio Rev. Code § 2923.03(E).
- <sup>33</sup> Ohio Rev. Code § 2923.03(F).
- <sup>34</sup> Ohio Rev. Code § 2307.60; see also *Buddenberg v. Weisdack*, 161 Ohio St.3d 160, 2020-Ohio-3832, 161 N.E.3d 603, 6 (2020) (citing *Jacobson v. Kaforey*, 149 Ohio St.3d 398, 2016-Ohio-8434, 75 N.E.3d 203).
- <sup>35</sup> *Vandiver v. Morgan Adhesive Co.*, 126 Ohio App.3d 634, 638, 710 N.E.2d 1219 (9th Dist. 1998) (quoting *Smith v. John Deere Co.*, 83 Ohio App.3d 398, 406, 614 N.E.2d 1148 (10th Dist. 1993)).
- <sup>36</sup> *Bartow v. Smith*, 149 Ohio St. 301, 309, 37 Ohio Op. 10, 78 N.E.2d 735 (1948).
- <sup>37</sup> *Smith v. John Deere Co.*, 83 Ohio App.3d 398, 406, 614 N.E.2d 1148 (10th Dist. 1993).
- <sup>38</sup> *Id.*
- <sup>39</sup> Ohio Rev. Code § 2305.111(B).
- <sup>40</sup> *Love v. Port Clinton*, 37 Ohio St.3d 98, 99, 524 N.E.2d 166 (1988) (citing Restatement of the Law 2d, Torts (1965) 25, Section 13).
- <sup>41</sup> *Hunter v. Shenango Furnace Co.*, 38 Ohio St.3d 235, 237-38, 527 N.E.2d 871 (1988) (quoting Restatement of the Law 2d (1965) Torts 26, Section 14).
- <sup>42</sup> Ohio Rev. Code § 2305.111(B).
- <sup>43</sup> Ohio Rev. Code § 2307.60; see also *Buddenberg v. Weisdack*, 161 Ohio St.3d 160, 2020-Ohio-3832, 161 N.E.3d 603, 6 (2020) (citing *Jacobson v. Kaforey*, 149 Ohio St.3d 398, 2016-Ohio-8434, 75 N.E.3d 203).
- <sup>44</sup> See *Burns v. Adams*, 4th Dist. Scioto No. 12CA3508, 2014-Ohio-1917, 81-102 (2014) (awarding punitive damages for the crime of sexual battery); see also Ohio Rev. Code § 2315.21 and *T.P. v. Weiss*, 990 N.E.2d 1098, 2013-Ohio-1402, 98 (2013) (awarding punitive damages for the crime of sexual battery with no statutory cap).
- <sup>45</sup> *Witcher v. Fairlawn*, 113 Ohio App.3d 214, 218, 680 N.E.2d 713 (9th Dist. 1996). At 217 (citing *Feliciano v. Kreiger*, 50 Ohio St. 2d 69, 71, 362 N.E.2d 646 (1977)).
- <sup>46</sup> *Id.* (citing *Toledo v. Lowenberg*, 99 Ohio App. 165, 167, 131 N.E.2d 682 (6th Dist. 1955)).
- <sup>47</sup> Ohio Rev. Code § 2305.11(A).
- <sup>48</sup> *Ehrlich v. Kovack*, 135 F. Supp. 3d 638, 673 (N.D. Ohio 2015) (citing *Bolander v. BP Oil Co.*, 128 Fed. Appx. 412, 419 (6th Cir. 2005) and *Yeager v. Local Union 20, Teamsters, Chauffeurs, Warehousemen & Helpers of Am.*, 6 Ohio St.3d 369, 373-375, 6 Ohio B. 421, 453 N.E.2d 666 (1983)).
- <sup>49</sup> *Id.*
- <sup>50</sup> *Loudin v. Radiology & Imaging Services, Inc.*, 128 Ohio St.3d 555, 2011-Ohio-1817, 948 N.E.2d 944, 20 (2011).
- <sup>51</sup> See *Dobran v. Franciscan Med. Ctr.*, 102 Ohio St.3d 54, 2004-Ohio-1883, 806 N.E.2d 537, 10 (2004) (citing *Paugh v. Hanks*, 6 Ohio St.3d 72, 78, 6 Ohio B. 114, 451 N.E.2d 759 (1983) and *Schultz v. Barberton Glass Co.* (1983), 4 Ohio St.3d 131, 136, 4 OBR 376, 447 N.E.2d 109 (1983)).
- <sup>52</sup> *Id.* (citing *Heiner v. Moretuzzo*, 73 Ohio St.3d 80, 87 1995 Ohio 65, 652 N.E.2d 664 (1995)).
- <sup>53</sup> *Kirchner v. Crystal*, 15 Ohio St.3d 326, 327, 15 Ohio B. 452, 474 N.E.2d 275 (1984).
- <sup>54</sup> Ohio Rev. Code § 2305.111(A)(1); see also *S.F. v. Watson*, 7th Dist. No. 15 MA 0082, 2016-Ohio-2928, 17, 65 N.E.3d 65 (2016).
- <sup>55</sup> Ohio Rev. Code § 2907.02.
- <sup>56</sup> Ohio Rev. Code § 2907.03.
- <sup>57</sup> Ohio Rev. Code § 2907.05.
- <sup>58</sup> Ohio Rev. Code § 2907.07.
- <sup>59</sup> Ohio Rev. Code. § 2305.111(C).
- <sup>60</sup> Ohio Rev. Code. § 2305.111(C)(1).
- <sup>61</sup> Ohio Const. Art. 1 § 10.
- <sup>62</sup> Ohio Rev. Code § 2930.01 (H).
- <sup>63</sup> Ohio Rev. Code § 2930.01 (D).
- <sup>64</sup> Ohio Rev. Code § 2930.02 (A).
- <sup>65</sup> Ohio Rev. Code § 2930.01 (A).
- <sup>66</sup> Ohio Rev. Code § 2930.01 (C).
- <sup>67</sup> Ohio Rev. Code § 2930.04 (A)-(B).
- <sup>68</sup> Ohio Rev. Code § 2930.04 (C).
- <sup>69</sup> Ohio Rev. Code § 2930.05 (A).
- <sup>70</sup> Ohio Rev. Code § 2930.06 (A)-(C); § 2930.08.
- <sup>71</sup> Ohio Rev. Code § 2930.07 (A).
- <sup>72</sup> Ohio Rev. Code § 2930.10 (A).
- <sup>73</sup> Ohio Rev. Code § 2930.11 (A)-(B).
- <sup>74</sup> Ohio Rev. Code § 2930.12.
- <sup>75</sup> Ohio Rev. Code § 2930.12 (C).
- <sup>76</sup> Ohio Rev. Code § 2930.13 (C).
- <sup>77</sup> Ohio Rev. Code § 2930.12 (D).
- <sup>78</sup> Ohio Rev. Code § 2930.14 (A).
- <sup>79</sup> Ohio Rev. Code § 2930.14 (B).
- <sup>80</sup> Ohio Rev. Code § 2930.16 (A).
- <sup>81</sup> Ohio Rev. Code § 2930.16 (B).
- <sup>82</sup> Ohio Rev. Code § 2930.17 (A).
- <sup>83</sup> Ohio Rev. Code § 2930.15 (A)-(B).
- <sup>84</sup> Ohio Rev. Code § 2930.16.
- <sup>85</sup> Ohio Rev. Code § 2930.18.
- <sup>86</sup> Ohio Rev. Code § 2307.60 (A)(1).
- <sup>87</sup> *Id.*
- <sup>88</sup> Ohio Rev. Code § 2307.60 (A)(2).
- <sup>89</sup> Ohio Rev. Code § 2307.60 (B)(1)-(3).
- <sup>90</sup> <https://www.bbc.co.uk/news/world-47131052>.
- <sup>91</sup> <https://www.un.org/en/observances/female-genital-mutilation-day>.