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SENATE BILL NO. 1060

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice on February 20, 2017)

(Patrons Prior to Substitute—Senators Black and Dunnivant [SB 1241])

A BILL to amend and reenact § 19.2-8 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 8.01-42.5 and 18.2-51.7, relating to female genital mutilation; criminal penalty and civil action.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-8 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 8.01-42.5 and 18.2-51.7 as follows:

§ 8.01-42.5. Civil action for female genital mutilation.

A. Any person injured by an individual who engaged in conduct that is prohibited under § 18.2-51.7, whether or not the individual has been charged with or convicted of the alleged violation, may sue therefor and recover compensatory damages, punitive damages, and reasonable attorney fees and costs.

B. No action shall be commenced under this section more than 10 years after the later of (i) the date of the last act in violation of § 18.2-51.7 or (ii) the date on which such person attained 18 years of age.

§ 18.2-51.7. Female genital mutilation.

A. Any person who knowingly circumcises, excises, or infibulates, in whole or in any part, the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years is guilty of a Class 1 misdemeanor.

B. Any parent, guardian, or other person responsible for the care of a minor who consents to the circumcision, excision, or infibulation, in whole or in any part, of the labia majora or labia minora or clitoris of such minor is guilty of a Class 1 misdemeanor.

C. Any parent, guardian, or other person responsible for the care of a minor who knowingly removes or causes or permits the removal of such minor from the Commonwealth for the purposes of committing an offense under subsection A is guilty of a Class 1 misdemeanor.

D. A surgical operation is not a violation of this section if the operation is (i) necessary to the health of the person on whom it is performed and is performed by a person licensed in the place of its performance as a medical practitioner or (ii) performed on a person in labor who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

E. A violation of this section shall constitute a separate and distinct offense. The provisions of this section shall not preclude prosecution under any other statute.

§ 19.2-8. Limitation of prosecutions.

A prosecution for a misdemeanor, or any pecuniary fine, forfeiture, penalty or amercement, shall be commenced within one year next after there was cause therefor, except that a prosecution for petit larceny may be commenced within five years, and for an attempt to produce abortion, within two years after commission of the offense.

A prosecution for any misdemeanor violation of § 54.1-3904 shall be commenced within two years of the discovery of the offense.

A prosecution for violation of laws governing the placement of children for adoption without a license pursuant to § 63.2-1701 shall be commenced within one year from the date of the filing of the petition for adoption.

A prosecution for making a false statement or representation of a material fact knowing it to be false or knowingly failing to disclose a material fact, to obtain or increase any benefit or other payment under the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.) shall be commenced within three years next after the commission of the offense.

A prosecution for any violation of § 10.1-1320, 62.1-44.32 (b), 62.1-194.1, or Article 11 (§ 62.1-44.34:14 et seq.) of Chapter 3.1 of Title 62.1 that involves the discharge, dumping or emission of any toxic substance as defined in § 32.1-239 shall be commenced within three years next after the commission of the offense.

Prosecution of Building Code violations under § 36-106 shall commence within one year of discovery of the offense by the building official, provided that such discovery occurs within two years of the date of initial occupancy or use after construction of the building or structure, or the issuance of a certificate of use and occupancy for the building or structure, whichever is later. However, prosecutions under § 36-106 relating to the maintenance of existing buildings or structures as contained in the Uniform Statewide Building Code shall commence within one year of the issuance of a notice of

60 violation for the offense by the building official.

61 Prosecution of any misdemeanor violation of § 54.1-111 shall commence within one year of the
62 discovery of the offense by the complainant, but in no case later than five years from occurrence of the
63 offense.

64 Prosecution of any misdemeanor violation of any professional licensure requirement imposed by a
65 locality shall commence within one year of the discovery of the offense by the complainant, but in no
66 case later than five years from occurrence of the offense.

67 Prosecution of nonfelonious offenses which constitute malfeasance in office shall commence within
68 two years next after the commission of the offense.

69 Prosecution of any violation of § 55-79.87, 55-79.88, 55-79.89, 55-79.90, 55-79.93, 55-79.94,
70 55-79.95, 55-79.103, or any rule adopted under or order issued pursuant to § 55-79.98, shall commence
71 within three years next after the commission of the offense.

72 Prosecution of illegal sales or purchases of wild birds, wild animals and freshwater fish under
73 § 29.1-553 shall commence within three years after commission of the offense.

74 Prosecution of violations under Title 58.1 for offenses involving false or fraudulent statements,
75 documents or returns, or for the offense of willfully attempting in any manner to evade or defeat any
76 tax or the payment thereof, or for the offense of willfully failing to pay any tax, or willfully failing to
77 make any return at the time or times required by law or regulations shall commence within three years
78 next after the commission of the offense, unless a longer period is otherwise prescribed.

79 Prosecution of violations of subsection A or B of § 3.2-6570 shall commence within five years of the
80 commission of the offense, except violations regarding agricultural animals shall commence within one
81 year of the commission of the offense.

82 A prosecution for a violation of § 18.2-386.1 shall be commenced within five years of the
83 commission of the offense.

84 A prosecution for any violation of the Campaign Finance Disclosure Act, Chapter 9.3 (§ 24.2-945 et
85 seq.) of Title 24.2, shall commence within one year of the discovery of the offense but in no case more
86 than three years after the date of the commission of the offense.

87 A prosecution of a crime that is punishable as a misdemeanor pursuant to the Virginia Computer
88 Crimes Act (§ 18.2-152.1 et seq.) or pursuant to § 18.2-186.3 for identity theft shall be commenced
89 before the earlier of (i) five years after the commission of the last act in the course of conduct
90 constituting a violation of the article or (ii) one year after the existence of the illegal act and the identity
91 of the offender are discovered by the Commonwealth, by the owner, or by anyone else who is damaged
92 by such violation.

93 A prosecution of a misdemeanor under § 18.2-51.7, 18.2-64.2, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2,
94 18.2-67.5, or 18.2-370.6 where the victim is a minor at the time of the offense shall be commenced no
95 later than one year after the victim reaches majority.

96 A prosecution for a violation of § 18.2-260.1 shall be commenced within three years of the
97 commission of the offense.

98 Nothing in this section shall be construed to apply to any person fleeing from justice or concealing
99 himself within or without the Commonwealth to avoid arrest or be construed to limit the time within
100 which any prosecution may be commenced for desertion of a spouse or child or for neglect or refusal or
101 failure to provide for the support and maintenance of a spouse or child.