

18101485D

**HOUSE BILL NO. 95**

Offered January 10, 2018

Prefiled December 12, 2017

*A BILL to amend and reenact §§ 18.2-51.7 and 19.2-8 of the Code of Virginia, relating to female genital mutilation; penalty.*

Patrons—Miyares, Poindexter and Brewer

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-51.7 and 19.2-8 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-51.7. Female genital mutilation; penalty.**

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 4 ~~misdemeanor~~ **felony**.

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 4 ~~misdemeanor~~ **felony**.

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 4 ~~misdemeanor~~ **felony**.

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 violation for the offense by the building official.

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

Prosecution of any misdemeanor violation of any professional licensure requirement imposed by a

INTRODUCED

HB95

59 locality shall commence within one year of the discovery of the offense by the complainant, but in no  
60 case later than five years from occurrence of the offense.

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

63 Prosecution of any violation of § 55-79.87, 55-79.88, 55-79.89, 55-79.90, 55-79.93, 55-79.94,  
64 55-79.95, 55-79.103, or any rule adopted under or order issued pursuant to § 55-79.98, shall commence  
65 within three years next after the commission of the offense.

66 Prosecution of illegal sales or purchases of wild birds, wild animals and freshwater fish under  
67 § 29.1-553 shall commence within three years after commission of the offense.

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

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

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

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

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

87 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,  
88 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  
89 later than one year after the victim reaches majority.

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

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

96 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
97 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**  
98 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**  
99 **836 of the Acts of Assembly of 2017 requires the Virginia Criminal Sentencing Commission to**  
100 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**  
101 **necessary appropriation is \$0 for periods of commitment to the custody of the Department of**  
102 **Juvenile Justice.**