

ST HELENA
A BILL
FOR
AN ORDINANCE

to prohibit the practice of female genital mutilation, to safeguard against violation of a person's mental or physical integrity through the practice of female genital mutilation and for connected purposes.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

PART I – PRELIMINARY

Section 1 - Short title, commencement and interpretation

(1) This Ordinance may be cited as the Female Genital Mutilation (Prohibition) Ordinance, 2024, and comes into force on a date or dates fixed by the Governor by Order.

(2) An Order under subsection (1) may—

- (a) appoint different dates for different provisions or for different purposes of the same provision; and
- (b) contain such transitional or consequential provisions as appear to the Governor to be necessary or convenient.

(3) Interpretation

In this Ordinance, unless the context otherwise requires—

“female genital mutilation” comprises all procedures involving partial or total removal of the female genitalia or other injury to the female genital organs, or any harmful procedure to the female genitalia, for non-medical reasons, and includes—

- (a) clitoridectomy, which is the partial or total removal of the clitoris or the prepuce;
- (b) excision, which is the partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora;
- (c) infibulation, which is the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia minora or the labia majora, with or without excision of the clitoris, but does not include a sexual reassignment procedure or a medical procedure that has a genuine therapeutic purpose;

“law enforcement officer” means a police officer as defined in the Interpretation Ordinance, 1968;

“medical practitioner” means a person registered as such under the Medical Practitioners Ordinance, 1910;

“midwife” means a person registered as such under the Nurses and Midwives Ordinance, 1987.

“sexual reassignment procedure” means any surgical procedure that is performed for the purposes of altering (whether wholly or partly) the genital appearance of a person to the genital appearance (as nearly as practicable) of a person of the opposite sex;

“support services” includes the provision of shelter, medical services, legal education, training of service providers and advocates against female genital mutilation, and the provision of psycho-social support.

PART II – OFFENCES

Section 2 - Offence of female genital mutilation

(1) A person, including a person undergoing a course of training while under supervision by a medical practitioner or midwife with a view to becoming a medical practitioner or midwife, who performs female genital mutilation on another person commits an offence.

(2) If in the process of committing an offence under subsection (1) a person causes the death of another, that person shall, on conviction, be liable to imprisonment for life.

(3) No offence under subsection (1) is committed by an approved person who performs—

(a) a surgical operation on another person which is necessary for that other person’s physical or mental health; or

(b) a surgical operation on another person who is in any stage of labour or has just given birth, for purposes connected with the labour or birth.

(4) The following are, for the purposes of this Ordinance, approved persons—

(a) in relation to an operation falling within paragraph (a) of subsection (3), a medical practitioner;

(b) in relation to an operation falling within paragraph (b) of subsection (3), a medical practitioner, a registered midwife or a person undergoing a course of training with a view to becoming a medical practitioner or midwife.

(5) In determining, for purposes of subsection (3)(a), whether or not any surgical procedure is performed on any person for the benefit of that person’s physical or mental health, a person’s culture, religion or other custom or practice shall be of no effect.

(6) It is no defence to a charge under this section that the person on whom the act involving female genital mutilation was performed consented to that act, or that the person charged believed that such consent had been given.

Section 3 - Aiding and abetting female genital mutilation

A person who aids, abets, counsels or procures—

- (a) a person to commit an offence under section 2; or
- (b) another person to perform female genital mutilation on that other person, commits an offence.

Section 4 - Procuring a person to perform female genital mutilation in another country

A person commits an offence if the person takes another person from St Helena to another country, or arranges for another person to be brought into St Helena from another country, with the intention of having that other person subjected to female genital mutilation.

Section 5 - Use of premises to perform female genital mutilation

A person who knowingly allows any premises, for which that person is in control of, or responsible for, to be used for purposes of performing female genital mutilation commits an offence.

Section 6 - Possession of tools or equipment

A person who is found in possession of a tool or equipment for a purpose connected with the performance of female genital mutilation, commits an offence.

Section 7 - Failure to report commission of offence

A person commits an offence if the person, being aware that an offence of female genital mutilation has been, is in the process of being, or intends to be, committed, fails to report accordingly to a law enforcement officer.

Section 8 - Use of derogatory or abusive language

Any person who uses derogatory or abusive language that is intended to ridicule, embarrass or otherwise harm a woman or girl for having not undergone female genital mutilation, or a man for marrying or otherwise supporting a woman or girl who has not undergone female genital mutilation, commits an offence and shall be liable, upon conviction, to imprisonment for a term not less than six months, or to a fine of not less than one thousand pounds, or both.

PART III – MISCELLANEOUS

Section 9 - Entry into premises

A law enforcement officer may, without a warrant, enter any premises for the purposes of ascertaining whether there is or has been, on or in connection with such premises any contravention of this Ordinance.

Section 10 - Measures by Government

The Government shall take necessary steps within its available resources to—

- (a) protect women and girls from female genital mutilation;
- (b) provide support services to victims of female genital mutilation; and
- (c) undertake public education and sensitise the people of St Helena on the dangers and adverse effects of female genital mutilation.

Section 11 - Extra-territorial jurisdiction

(1) A person who, while being a citizen of, or permanently residing in, St Helena, commits an act outside St Helena which act would constitute an offence under section 2 had it been committed in St Helena, is guilty of such an offence under this Ordinance.

(2) A person may not be convicted of an offence contemplated in subsection (1) if such a person has been acquitted or convicted in the country where that offence was committed.

Section 12 - Penalty for offences

A person who commits an offence under this Ordinance is liable, on conviction, to imprisonment for a term of not less than three years, or to a fine of not less than five thousand pounds, or both.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

This Bill would make the practice of female genital mutilation a criminal offence in St Helena.

Presented by Robert Charles Midwinter, supported by Gillian Ann Brooks, and Rosemary June Bargo