

Female Genital Mutilation

***Female
Genital
Mutilation
is
Against the Law
in
New South Wales***

This pamphlet is about the law in New South Wales against female genital mutilation or “FGM”

A lot of people call female genital mutilation “female circumcision”

“Female genital mutilation” and “female circumcision” are the same thing



NSW Education Program on FGM

Funded by NSW Health

***What the Law
Says About***

**Female
Genital
Mutilation**

in New South Wales

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FGM Laws in NSW—Some Questions Answered

What does the law say about female genital mutilation (FGM)?

Section 45 of the NSW Crimes Act says that FGM is not allowed. A person cannot:

- “excise, infibulate or mutilate the whole or any part of the labia minora or labia majora or clitoris of another person”; or
- “aid, abet, counsel or procure a person to perform any of those acts on another person”.

This means that it is against the law to:

- Circumcise a woman, girl or female baby
- Remove or cut out any part of the female genital area (‘excise’); or
- Stitch up the female genital area (“infibulate”); or
- Cut the clitoris or part of the clitoris; or
- Damage the female genital area in other ways.

When the law says that a person cannot “aid, abet, counsel, or procure” a person to perform FGM, this means that it is also against the law to:

- Help someone else to do these acts; or
- Get someone else to do these acts

The law aims to stop a certain type of practice. Other types of injuries to the female genital area can still be assault and wounding offences under the NSW Crimes Act.

What happens if someone breaks the law?

Someone who performs FGM can be sent to prison for up to 21 years. The punishment is the same when a person helps someone else, or gets someone else, to perform FGM.

Are there any surgical procedures which are allowed?

Yes. The law allows a surgical operation that is:

- Necessary for the health of a person and which is done by a medical practitioner; or
- Medically necessary during labour or birth and which is done by a medical practitioner, midwife or medical student; or
- A sexual reassignment procedure and which is done by a medical practitioner (a sexual reassignment procedure is part of a sex change operation when a doctor operates to change a man into a woman, or a woman into a man).

The law says that only matters related to the “medical welfare” of a person can be taken into account when deciding whether an operation is necessary for the health of a person.

Can we do FGM for cultural reasons?

No. The only surgical operations allowed are those listed above.

Can we do FGM if the woman or girl agrees to it?

No. It is against the law to do FGM even if the woman or girl wants it done.

Can we go to another country or another part of Australia to do it?

No. If the woman, girl or female baby normally lives in New South Wales, it is against the law to have FGM performed on her in another country or in another part of Australia.

Can we stitch up (re-infibulate) a woman again after childbirth, or after any other type of gynaecological operation?

Only a doctor may stitch up a woman or girl if he/she decides that it is necessary for the woman’s health. Or a doctor, midwife or medical student may stitch up a woman or girl if he/she decides that it is for medical purposes connected with the woman or girl’s labour or birth.

Who has to report FGM to the authorities?

The law says that a medical practitioner must report FGM to the Director General of the Department of Health if FGM is done on a child who is under 16 years old.

FGM is identified as child abuse in NSW. The Children and Young Persons (Care and Protection) Act 1998 mandates a wide range of people in occupations working with children to report “current concerns” and reasonable grounds to suspect “risk of harm” relating to children to the NSW Department of Community Services. (A child is a person under 16 years). Those people mandated to report include health workers, teachers, child care workers, disability workers and the Police.