

Serial 107
Criminal
Code
Amendment
(No. 2)
Mr Hatton

NORTHERN TERRITORY OF AUSTRALIA
CRIMINAL CODE AMENDMENT BILL (No. 2) 1995

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the Criminal Code

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as *the Criminal Code Amendment Act (No. 2) 1995*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. NEW DIVISION

The Criminal Code is amended by inserting after section 186 the following:

"Division 4A - Female Genital Mutilation

"186A. DEFINITIONS

"In this Division -

'authorised professional' means:

- (a) a person registered under the *Nursing Act* as a general nurse or midwifery nurse;
- (b) in relation to an operation performed in a place outside the Territory, a person registered or authorised to practise general nursing or midwifery by a body established under the law of that place having functions similar to the functions of the Nurses Board under the *Nursing Act*; or
- (c) a person registered under the *Health Practitioners and Allied Professionals Registration Act* in the category of health practice of Aboriginal health work;

'female genital mutilation' means the excision, infibulation or any other mutilation of the whole or any part of the labia majora or labia minora or clitoris;

'gender reassignment procedure' means a surgical procedure to give a female, or a person whose sex is ambivalent, the genital appearance of a particular sex (whether male or female);

'medical practitioner', in relation to an operation performed in a place outside the Territory, includes a person authorised to practise medicine by a body established under the law of that place having functions similar to the functions of the Medical Board of the Northern Territory under the *Medical Act*.

"186B. FEMALE GENITAL MUTILATION

"(1) A person who performs female genital mutilation on another person is guilty of a crime and is liable to imprisonment for 14 years.

"(2) An offence is committed against this section even if one or more of the acts constituting the offence occurred outside the Territory if the person mutilated by or because of the acts is ordinarily resident in the Territory.

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"(3) It is not an offence against this section to perform a surgical operation if the operation -

- (a) has a genuine therapeutic purpose and is performed by a medical practitioner or authorised professional; or
- (b) is a gender reassignment procedure and is performed by a medical practitioner.

"(4) A surgical operation does not have a genuine therapeutic purpose by virtue of the fact that it is performed as, or as part of, a cultural, religious or other social custom.

"186C. REMOVAL OF CHILD FROM TERRITORY FOR FEMALE GENITAL MUTILATION

"(1) A person who takes a child from the Territory, or arranges for a child to be taken from the Territory, with the intention of having female genital mutilation performed on the child is guilty of a crime and liable to imprisonment for 14 years.

"(2) In proceedings for an offence against subsection (1), if it is proved that -

- (a) the accused took a child, or arranged for a child to be taken, from the Territory; and
- (b) female genital mutilation was performed on the child while outside the Territory,

it shall be presumed, until the contrary is proved, that the accused took the child, or arranged for the child to be taken, from the Territory with the intention of having female genital mutilation performed on the child.

"186D. CONSENT NOT RELEVANT

"It is not a defence to a charge of a crime defined by this Division that the person mutilated by or because of the acts alleged to have been committed -

- (a) consented to the acts; and/or
- (b) consented to being taken from the Territory,

or that a parent or guardian of the person so consented."

4. APPLICATION

This Act applies only to acts occurring after the commencement of this Act.

