

**CRIMES (FEMALE GENITAL MUTILATION) AMENDMENT
ACT 1994 No. 58**

NEW SOUTH WALES



TABLE OF PROVISIONS

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 2. Commencement
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**CRIMES (FEMALE GENITAL MUTILATION) AMENDMENT
ACT 1994 No. 58**

NEW SOUTH WALES



Act No. 58, 1994

An Act to amend the Crimes Act 1900 to prohibit female genital mutilation. [Assented to 5 October 1994]

Crimes (Female Genital Mutilation) Amendment Act 1994 No. 58

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Crimes (Female Genital Mutilation) Amendment Act 1994.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Crimes Act 1900 No. 40

3. The Crimes Act 1900 is amended by inserting after section 44 the following section:

Prohibition of female genital mutilation

45. (1) A person who:

- (a) excises, infibulates or otherwise mutilates the whole or any part of the labia majora or labia minora or clitoris of another person; or
- (b) aids, abets, counsels or procures a person to perform any of those acts on another person,

is liable to penal servitude for 7 years.

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

(3) It is not an offence against this section to perform a surgical operation if that operation:

- (a) is necessary for the health of the person on whom it is performed and is performed by a medical practitioner; or
- (b) is performed on a person in labour or who has just given birth, and for medical purposes connected with that labour or birth, by a medical practitioner or authorised professional; or
- (c) is a sexual reassignment procedure and is performed by a medical practitioner.

(4) In determining whether an operation is necessary for the health of a person only matters relevant to the medical welfare of the person are to be taken into account.

(5) It is not a defence to a charge under this section that the person mutilated by or because of the acts alleged to have been committed consented to the acts.

Crimes (Female Genital Mutilation) Amendment Act 1994 No. 58

(6) This section applies only to acts occurring after the commencement of the section.

(7) In this section:

“authorised professional” means:

- (a) a person authorised to practise midwifery under the Nurses Act 1991 or undergoing a course of training with a view to being so authorised; or
- (b) in relation to an operation performed in a place outside New South Wales—a person authorised to practise midwifery by a body established under the law of that place having functions similar to the functions of the Nurses Registration Board, or undergoing a course of training with a view to being so authorised; or
- (c) a medical student;

“medical practitioner”, in relation to an operation performed in a place outside New South Wales, 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 New South Wales Medical Board;

“medical student” means:

- (a) a registered medical student within the meaning of the Medical Practice Act 1992; or
- (b) in relation to an operation performed in a place outside New South Wales—a person undergoing a course of training with a view to being authorised to be a medical practitioner in that place;

“sexual reassignment procedure” means a surgical procedure to alter the genital appearance of a person to the appearance (as nearly as practicable) of the opposite sex to the sex of the person.

[Minister's second reading speech made in—
Legislative Council on 4 May 1994
Legislative Assembly on 12 May 1994]

FIRST PRINT

**CRIMES (FEMALE GENITAL MUTILATION) AMENDMENT
BILL 1994**

NEW SOUTH WALES

**EXPLANATORY NOTE**

(This Explanatory Note relates to this Bill as introduced into Parliament)

Procedures involving the incision, and usually removal, of part or all of the external genitalia of young females are practised by some groups as a matter of custom or ritual. The practice can lead to infection, haemorrhaging, dysuria (painful urination) and dysmenorrhoea (painful menstruation) due to pelvic congestion and complications during labour.

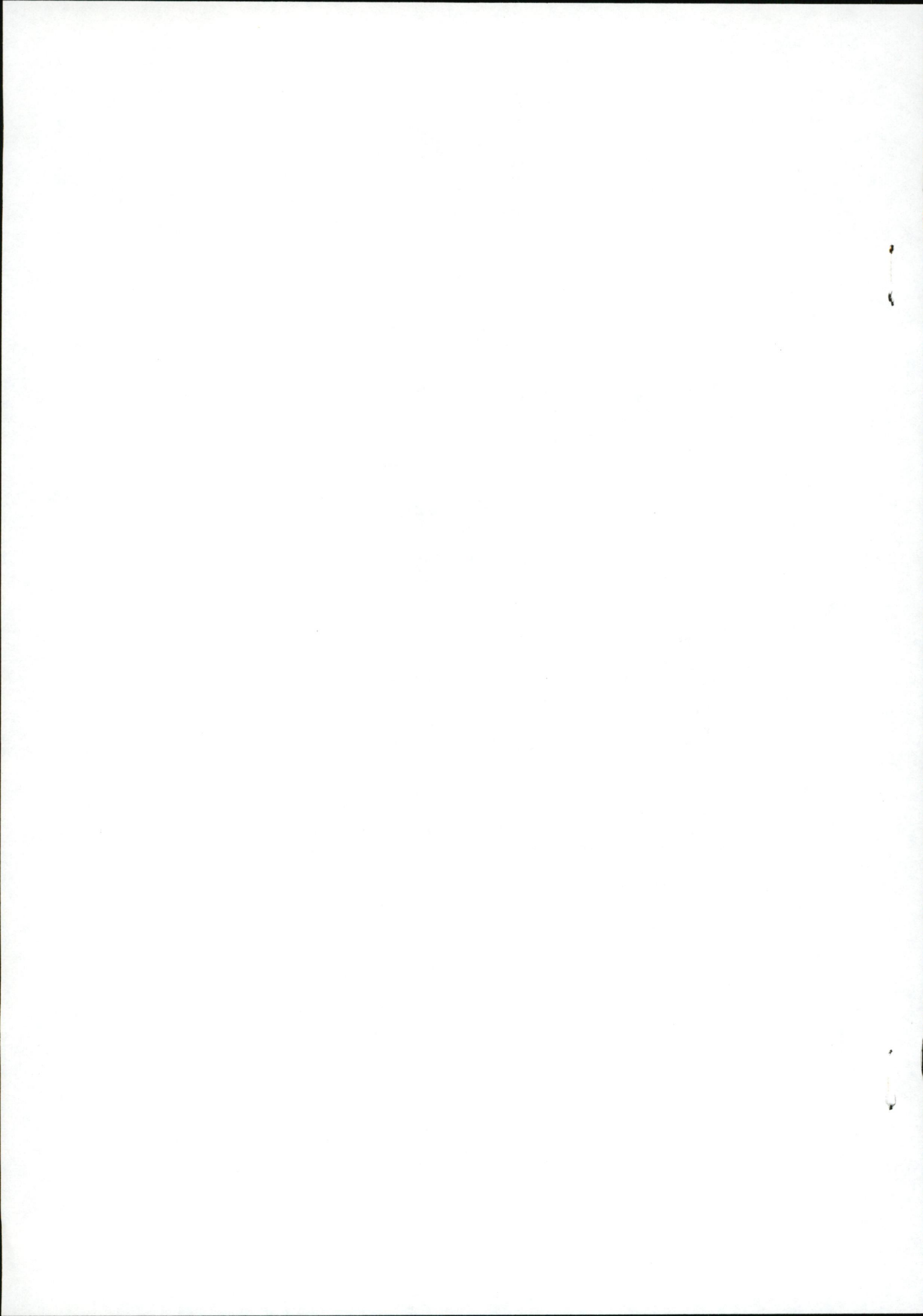
The object of this Bill is to amend the Crimes Act 1900 to make it an offence punishable by a maximum of 7 years imprisonment to mutilate external female genitalia or to aid, abet, counsel or procure such mutilation. An offence under the proposed section will be punishable even if committed outside of New South Wales if the mutilated person is ordinarily resident in New South Wales.

It will not be an offence for a doctor to perform a surgical operation that is necessary for the health of a person, for a doctor or midwife to perform a surgical operation on a person who is in any stage of labour or has just given birth or for a doctor to carry out a sexual reassignment procedure on a person.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day.

Clause 3 contains the amendment to the Crimes Act 1900 described above.



FIRST PRINT

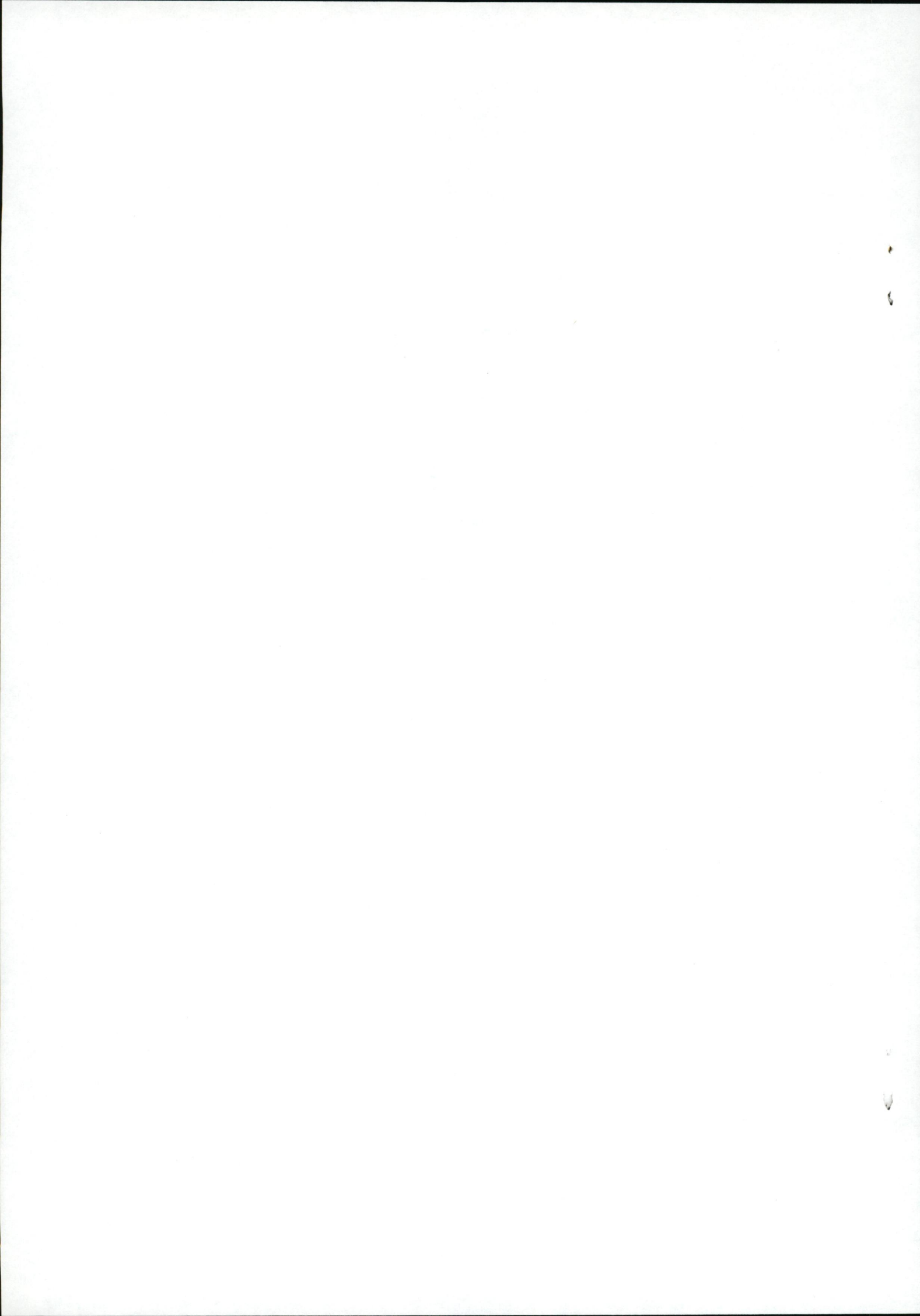
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**CRIMES (FEMALE GENITAL MUTILATION) AMENDMENT
BILL 1994**

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend the Crimes Act 1900 to prohibit female genital mutilation.

Crimes (Female Genital Mutilation) Amendment 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Crimes (Female Genital Mutilation) Amendment Act 1994.

5 Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Crimes Act 1900 No. 40

3. The Crimes Act 1900 is amended by inserting after section 44 the following section:

10 Prohibition of female genital mutilation

45. (1) A person who:

(a) excises, infibulates or otherwise mutilates the whole or any part of the labia majora or labia minora or clitoris of another person; or

15 (b) aids, abets, counsels or procures a person to perform any of those acts on another person,

is liable to penal servitude for 7 years.

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

(3) It is not an offence against this section to perform a surgical operation if that operation:

25 (a) is necessary for the health of the person on whom it is performed and is performed by a medical practitioner; or

(b) is performed on a person in labour or who has just given birth, and for medical purposes connected with that labour or birth, by a medical practitioner or authorised professional; or

30 (c) is a sexual reassignment procedure and is performed by a medical practitioner.

(4) In determining whether an operation is necessary for the health of a person only matters relevant to the medical welfare of the person are to be taken into account.

35 (5) It is not a defence to a charge under this section that the person mutilated by or because of the acts alleged to have been committed consented to the acts.

Crimes (Female Genital Mutilation) Amendment 1994

(6) This section applies only to acts occurring after the commencement of the section.

(7) In this section:

“authorised professional” means:

(a) a person authorised to practise midwifery under the Nurses Act 1991 or undergoing a course of training with a view to being so authorised; or 5

(b) in relation to an operation performed in a place outside New South Wales—a person authorised to practise midwifery by a body established under the law of that place having functions similar to the functions of the Nurses Registration Board, or undergoing a course of training with a view to being so authorised; or 10

(c) a medical student;

“medical practitioner”, in relation to an operation performed in a place outside New South Wales, 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 New South Wales Medical Board; 15

“medical student” means: 20

(a) a registered medical student within the meaning of the Medical Practice Act 1992; or

(b) in relation to an operation performed in a place outside New South Wales—a person undergoing a course of training with a view to being authorised to be a medical practitioner in that place; 25

“sexual reassignment procedure” means a surgical procedure to alter the genital appearance of a person to the appearance (as nearly as practicable) of the opposite sex to the sex of the person.

