



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Final Analysis

Nicholas A. Keller

### Am. S.B. 214

132nd General Assembly  
(As Passed by the General Assembly)

- Sens.** Terhar and Lehner, O'Brien, Bacon, Coley, Dolan, Eklund, Hackett, Hoagland, Huffman, Kunze, LaRose, Manning, McColley, Obhof, Oelslager, Peterson, Schiavoni, Sykes, Tavares, Thomas, Uecker, Williams, Wilson, Yuko
- Reps.** Manning, Lanese, Celebrezze, Butler, Galonski, Rogers, Anielski, Antani, Antonio, Barnes, Blessing, Brenner, Brown, Carfagna, Craig, Dean, Dever, Edwards, Gavarone, Ginter, Greenspan, Holmes, Hoops, Hughes, Kent, Kick, Koehler, Lang, LaTourette, Leland, McClain, Miller, Patton, Perales, Ramos, Retherford, Riedel, Romanchuk, Ryan, Seitz, Sheehy, Sprague, Stein, Strahorn, Thompson, West, Wiggam, Zeltwanger, R. Smith

**Effective date:** April 5, 2019

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## ACT SUMMARY

- Prohibits the practice of or facilitation of female genital mutilation.
- Exempts from the Public Records Law a depiction of a crime victim the release of which would be offensive and objectionable, or that captures or depicts a sexually oriented offense victim at the actual occurrence of the offense.
- Allows a victim, victim's attorney, or victim's representative to request and receive a copy of a depiction of the victim from a public office despite the exemption.
- Exempts residential and familial information of county or multicounty corrections officers and employees of community-based correctional facilities from the Public Records Law.
- Names the public records exemptions the "Victims Privacy and Protection Act."

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## **CONTENT AND OPERATION**

### **Female genital mutilation prohibited**

The act prohibits any person from knowingly circumcising, excising, or infibulating any part of the labia majora, labia minora, or clitoris of another person who is under 18 years old. Relatedly, it also prohibits any person from knowingly transporting a minor to a facility or location for the purpose of facilitating such an act. A person who violates either prohibition is guilty of female genital mutilation, a second degree felony punishable by a term of imprisonment between two and eight years and a fine of up to \$15,000. The court also must impose an additional fine on an offender of up to \$25,000.<sup>1</sup>

#### **Excluded conduct**

The act's criminalizing of female genital mutilation does not apply to any procedure performed for medical purposes if performed by a licensed physician or licensed health care professional within the scope of that person's license.<sup>2</sup>

#### **Unavailable defenses**

A person charged with the offense of female genital mutilation may not raise any of the following as defenses to a violation:<sup>3</sup>

- Cultural or ritual necessity;
- Consent of the minor;
- Consent of the minor's parent or guardian.

### **Public records exemptions**

#### **Depiction of certain crime victims**

The act exempts depictions of crime victims from the definition of "public record" in the Public Records Law under specified circumstances and thereby exempts them from public inspection or copying. Under the act, any depiction by photograph, film, videotape, or printed or digital image is not a public record if: (1) it is of a victim and the release would be, to a reasonable person of ordinary sensibilities, an offensive and

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<sup>1</sup> R.C. 2903.32(A) and (B); R.C. 2929.14 and 2929.18, not in the act.

<sup>2</sup> R.C. 2903.32(C).

<sup>3</sup> R.C. 2903.32(D).



objectionable intrusion into the victim's expectation of bodily privacy and integrity, or (2) it depicts or captures the victim of a sexually oriented offense, as defined in the Sex Offender Registration and Notification (SORN) Law,<sup>4</sup> at the actual occurrence of the offense.<sup>5</sup>

### **Depiction of crime victim may be released to certain persons**

The act allows a victim, victim's attorney, or victim's representative, as that term is defined in the Rights of Victims of Crimes Law,<sup>6</sup> to request a copy of a victim-related depiction that would otherwise be exempt under the act. The public office or person responsible for public records must transmit a copy of the depiction to the victim, victim's attorney, or victim's representative upon receiving the request.<sup>7</sup>

### **County corrections officers residential/familial information**

The act exempts the residential and familial information of corrections officers employed by a county or multicounty corrections facility from the definition of "public record" in the Public Records Law and thereby exempts that information from public inspection or copying. These corrections officers join an expansive list of protected officers whose residential and familial information is protected under continuing law.<sup>8</sup>

### **Exempted information**

The residential and familial information of county and multicounty corrections officers that the act exempts comprises:<sup>9</sup>

(1) The address of the officer's actual personal residence, except for the state or political subdivision where the officer resides;

(2) Information compiled from referral to or participation in an employee assistance program;

(3) Social Security number, residential and emergency telephone numbers, and bank account, debit card, charge card, or credit card number;

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<sup>4</sup> R.C. Chapter 2950.

<sup>5</sup> R.C. 149.43(A)(1)(ii); R.C. 2950.01, not in the act.

<sup>6</sup> R.C. Chapter 2930.

<sup>7</sup> R.C. 149.43(B)(10); R.C. 2930.02, not in the act.

<sup>8</sup> R.C. 149.43(A)(1)(p), (A)(7), and third paragraph after (A)(7)(g).

<sup>9</sup> R.C. 149.43(A)(7).

(4) Any medical information;

(5) The name of any beneficiary of employment benefits, including life insurance, provided by the officer's employer;

(6) The identity and amount of any charitable or employment benefit deduction made by the officer's employer from the officer's compensation, unless the amount of the deduction is required by state or federal law;

(7) The name, residential address, name and address of the employer, Social Security number, residential and emergency telephone numbers, or any bank account, debit card, charge card, or credit card number of the spouse, a former spouse, or any child of the officer;

(8) A photograph of an officer who holds a position or has an assignment that may include undercover or plain clothes assignments, as determined by the officer's appointing authority. (It is not clear how this exempted information would apply to corrections officers affected by the act.)

#### **Journalist requests**

The act extends the existing journalist exception to its exemption of the correctional officers' personal and familial information. Accordingly, the following records must be disclosed to a journalist, on request: the address of the officer's actual personal residence and, if the officer's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the officer's spouse, former spouse, or child. To qualify for this disclosure, the request must include the journalist's name and title and the name and address of the journalist's employer, and must state that disclosure of the information sought would be in the public interest. A "journalist" is a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.<sup>10</sup>

#### **Redaction request**

The act also extends existing record redaction protections to county and multicounty corrections officers and employees of community-based correctional facilities. The protections, which had already been applicable to a number of persons in sensitive positions, allow a protected person to request a public office (other than a county auditor) to redact their addresses from any record made available to the general

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<sup>10</sup> R.C. 149.43(B)(9).



public on the Internet that includes the person's residential and familial information. The law specifies procedures that apply following the making of such a request and rules for the redaction of the address.<sup>11</sup>

### **Name of act**

The act states that its provisions making new exemptions to the Public Records Law are to be known as the "Victims Privacy and Protection Act."<sup>12</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	10-05-17
Reported, S. Judiciary	12-03-18
Passed Senate (31-0)	12-05-18
Reported, H. Criminal Justice	12-12-18
Passed House (86-0)	12-13-18
Senate concurred in House amendments (32-0)	12-19-18

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<sup>11</sup> R.C. 149.45(D).

<sup>12</sup> Section 3.

