

FEMALE GENITAL MUTILATION
(E Felony)
PENAL LAW 130.85(1)(b)
(Committed on or after November 1, 1997)

The _____ count is Female Genital Mutilation.

Under our law, a person is guilty of female genital mutilation when being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child's labia majora or labia minora or clitoris.¹

The term, "knowingly," used in this definition has its own special meaning in our law. I will now give you the meaning of that term.

A person KNOWINGLY consents to the circumcision, excision or infibulation of whole or part of a child's labia majora or labia minora or clitoris when that person is aware that he or she is consenting to such circumcision, excision or infibulation.²

Under our law, knowledge by the defendant of the age of the child is not an element of this crime, and it is not a defense to a prosecution for this crime that the defendant did not know the age of the child or believed such age to be eighteen or greater.³

¹ Subdivisions two and three of this section state:

"2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:

"(a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual."

² See Penal Law § 15.05(2).

⁴See, Penal Law § 15.20(3).

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following four elements:

1. That on or about (date) , in the county of (county) , the defendant, (defendant's name), was the parent, guardian or other person legally responsible and charged with the care or custody of (specity);
2. That (specify) was a child less than eighteen years old;
3. That the defendant consented to the circumcision, excision or infibulation of whole or part of such child's labia majora or labia minora or clitoris; and
4. That the defendant did so knowingly.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Female Genital Mutilation as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Female Genital Mutilation as charged in the _____ count.