



STATUTES AND REGULATORY INFORMATION: SCARIFICATION LAWS Summary

State Regulation of Scarification

Scarification as a body art or body modification practice is being addressed in many different ways by the states. States are either (1) explicitly allowing and regulating scarification by defining the practice or including it in a broader definition of "body art" or body art regulation; (2) not explicitly allowing scarification but may have the authority to regulate or prohibit it as a practice based on the interpretation of current law or agency rules (e.g., Tennessee and Wisconsin have effectively prohibited scarification through agency rule interpretations limiting it as a medical procedure); (3) expressly prohibiting it; (4) not expressly regulating scarification and/or it does not fit under any other defined practice of body art or body modification (i.e., that states do not regulate or prohibit scarification but local governments may).

States specifically addressing scarification

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| Alabama | "Body art" includes scarification. Ala. Admin. Code 420-3-23-.02(2). |
| Arkansas | "Scarification" means injury of the skin involving scratching, etching, or cutting of designs to produce a scar on a human being for ornamentation or decoration. Scarification is included in the definition of body art. A.C.A. § 20-27-1501(13). |
| Colorado | "Body art" includes scarification. "Scarification" means an invasive procedure in which the intended result is the production of scar tissue on the surface of the skin. 6 CCR 1010-22. |
| Illinois | "Scarification" means to create a design on the skin by means of shallow cuts or skin removal that are sometimes rubbed with a colorant or irritant to enhance the resulting scar tissue. Included in definition of "body art." 77 Ill. Adm. Code 797.100. |
| Louisiana | "Scarification" Included in the definition of "body art" practices allowed by registered commercial body art establishments and operators. LAC 51:XXVIII.101. |
| Minnesota | "Scarification" means an indelible mark fixed on the body by the production of scars. Minn. Stat. § 146B.01(22). |

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| | "Body piercing" includes branding, scarification, suspension, subdermal implantation, microdermal, and tongue bifurcation. Minn. Stat. § 146B.01(6). |
| New Mexico | "Body art" means tattooing, body piercing or scarification but does not include practices that are considered medical procedures by the New Mexico medical board. N.M. Stat. Ann. § 61-17B-3(B). "Scarification" means cutting into the skin with a sharp instrument or branding the skin with a heated instrument to produce a permanent mark or design on the skin. 16.36.1.7(L) NMAC . A member of a federally recognized tribe, band, nation or pueblo who performs scarification rituals for religious purposes is exempt from other legal requirements. N.M. Stat. Ann. § 61-17B-7(B). |
| North Dakota | State law establishes permitting and regulating practice of tattooing, body piercing, branding, subdermal implants, or scarification. N.D. Cent. Code, § 23-01-35. |
| Washington | "Body art" includes the practice of invasive cosmetic adornment including the use of branding and scarification. RCW 18.300.010 |
| West Virginia | The Department of Health and Human Services (DHHS) may limit or prohibit scarification. W. Va. Code § 16-37-4. However, current DHHS rules do not address scarification. W. Va. CSR §§ 64-80-1 through 64-80-17. |
| Wyoming | "Body-art" means the practice of physical body adornment utilizing body piercing, branding, scarification, sculpting or tattooing. Wyo. Stat. §14-3-107. |

States where a broader definition or agency interpretation of another term may regulate or prohibit scarification

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| Connecticut | "Tattooing" means marking or coloring, in an indelible manner, the skin of any person by pricking in coloring matter or by producing scars. Conn. Gen. Stat. § 19a-92a(a)(5). |
| Delaware | "Tattooing" includes an indelible design made upon the body of another person by production of scars other than by branding. CDR 16-4000-4451. |
| Florida | "Body piercing" means for commercial purposes the act of penetrating the skin to make, generally permanent in nature, a hole, mark, or scar. Fla. Stat. § 381.0075. |
| Hawaii | "Tattooing" means to mark or to color the skin by pricking and introducing subcutaneously, non-toxic dyes, pigments, or by the production of scars to form indelible marks and figures. WCHR 11-17-2. |
| Indiana | "Tattoo" means any design, letter, scroll, figure, or symbol done by scarring; upon or under the skin. 410 IAC 1-5-19(2). |
| Kentucky | "Body piercing" means the act of penetrating the skin or body part of a human being to make a hole, mark, or scar; "Tattooing" |

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| | means the act of producing scars on a human being or the act of inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce indelible marks or figures visible through the skin, including the application of permanent makeup. KRS § 211.760. |
| Michigan | "Tattoo" includes an indelible design made upon the body of another individual by production of scars other than by branding. MCLS § 333.13101. |
| Missouri | "Tattoo" includes an indelible design made on the body of another person by production of scars other than by branding. § 324.520(5)(b) R.S.Mo. |
| Montana | "Body piercing" means penetrating the skin to make a hole, mark, or scar that is generally permanent in nature. 50-48-102(1) MCA. |
| New Hampshire | "Tattoo" means an indelible mark or figure fixed upon the surface of the body by the insertion of pigment under the skin or by the production of scars. RSA 314-A:1(V). |
| North Carolina | "Tattooing" means the inserting of permanent markings or coloration, or the producing of scars, upon or under human skin through puncturing by use of a needle or any other method. N.C. Gen. Stat. § 130A-283(a). |
| Oklahoma | "Tattooing" means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment. O.A.C. § 310:233-1-2. |
| Texas | "Tattoo/tattooing" is the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related devices including permanent cosmetics. 25 Texas Administrative Code, §229.401(31). |
| Virginia | "Body-piercing" means the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature. Va. Code Ann. § 54.1-700. Regulation left to local governments. Va. Code Ann. § 15.2-912. |
| Tennessee | A 2007 Tennessee Board of Medical Examiners Private Advisory Opinion states that the "practice of Scarification, or incisions into human tissue for the purpose of creating designs constitutes the practice of medicine and also practice of surgery." http://health.state.tn.us/Downloads/Scarification.pdf . |
| Wisconsin | A 2013 Wisconsin Department of Health Services policy statement on body art procedures states that such as scarification with a scalpel appear to fall within the definition of the practice of medicine and are not included in the definition of tattooing and body piercing. |

States prohibiting scarification¹

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| Kansas | No person shall . . . produce an indelible mark or figure on the body of another by scarring using scalpels or other related equipment. KSA § 65-1942(c)(1). |
| New Jersey | Scarification such as branding and cutting shall not be performed in a body art establishment. N.J.A.C. 8:27-2.6 (a)(2). |

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| Oregon* | Scarification services defined under ORS 690.350 are prohibited until education and training programs can be implemented. Or. Admin. R. 331-920-0005. "Scarification" means injury of the skin to produce a scar on a live human being for permanent ornamentation or decoration. ORS § 690.350. |
| *Temporary prohibition | |
| South Carolina | The practice of tattooing does not include the removal of tattoos, nor the practice of branding, cutting, scarification, skin braiding, or the mutilation of any part of the body. S.C. Code Reg. 61-111. |

States law does not expressly address scarification and definitions of other practices are too narrow to include it

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| Alaska | Georgia | Maine | Mississippi | New York | Rhode Island | Vermont |
| Arizona ¹ | Idaho | Maryland | Nebraska | Ohio | South Dakota | |
| California | Iowa | Massachusetts ² | Nevada | Pennsylvania | Utah | |

1. While Arizona law does not expressly include scarification in the definition of “body art” or refer to the practice in any other provision, state law specifically prohibits the intentional scarring of a person who is under eighteen years of age unless a parent or guardian who made the request is physically present. A.R.S. § 13-3721.
2. Massachusetts House Bill 1889 proposes the regulation of body art, including scarification. "Scarification" is defined as a form of body art that requires the use of an instrument to cut a design into the skin to produce a scar. Also, the Massachusetts Department of Public Health has developed model regulation for body art in which “scarification” means altering skin texture by cutting the skin and controlling the body’s healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.

SUPPORTERS



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