

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

DANE HADACHEK; CECIL MININGER;
SIERRA HADACHEK; CARTER MOODY;
LANDON MOODY; JOHN DOE 1; and
JOHN DOE 2,

Plaintiffs,

v.

THE STATE OF OREGON,

Defendant.

Case No. 25CV18224

DEFENDANT'S MOTION TO DISMISS

Oral Argument Requested

ORS 20.140 - State fees deferred at filing

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1 **UTCR STATEMENT**

2 Pursuant to UTCR 5.050(1), Defendant requests oral argument and estimates that 60
3 minutes will be required for a combined argument and requests official court reporting services.

4 **CERTIFICATE OF CONFERRAL**

5 Although conferral is not required for a motion to dismiss for lack of subject matter
6 jurisdiction, Defendant represents that counsel for the parties conferred on July 10, 2025, but
7 they were unable to resolve this dispute without court assistance.

8 **MOTION TO DISMISS**

9 The State of Oregon moves to dismiss this case for lack of subject matter jurisdiction
10 under ORCP 21 A(1) on two grounds: (1) Plaintiffs have failed to establish that they have
11 standing under the Uniform Declaratory Judgments Act and (2) the Second Amended Complaint
12 fails to raise a justiciable controversy. This motion is supported by the Second Amended
13 Complaint and the points and authorities set forth below.

14 **I. POINTS AND AUTHORITIES**

15 **A. Introduction**

16 Plaintiffs are a group of individuals who oppose male genital cutting.¹ Instead of seeking
17 legislative solutions to ban that practice, they filed this declaratory judgment lawsuit challenging
18 state statutes that ban *female genital mutilation*. Plaintiffs contend that those statutes violate the
19 Privileges and Immunities Clause and Equal Rights Amendment of the Oregon Constitution by
20 failing to include male genital cutting in their protection.

21 However, the Court should not reach the merits of Plaintiffs' claims because it lacks
22 jurisdiction over this case. First, Plaintiffs have failed to demonstrate that they have standing
23 under the Uniform Declaratory Judgments Act because (1) Plaintiffs allege only speculative
24

25 ¹ Plaintiffs refer to male circumcision throughout the Second Amended Complaint as male
26 genital cutting. Compl ¶ 8. For consistency, Defendant also uses the term "male genital cutting"
throughout this motion.

1 harms and abstract policy interests and (2) the requested declaratory relief from this Court, a
2 declaration that the challenged statutes are unconstitutional, will not affect the legal status of
3 male genital cutting. Second, the Second Amended Complaint fails to raise a justiciable
4 controversy because (1) the challenged statutes cannot apply to Plaintiffs in the future, and thus,
5 this lawsuit is not based on “present facts” and (2) the requested declaratory and injunctive relief
6 would not provide “meaningful relief” to Plaintiffs without further legislative action.
7 Additionally, minor Plaintiffs Dane Hadachek, John Doe 1, and John Doe 2, do not have
8 standing to bring suit on their own behalf. The Court must therefore dismiss the Second
9 Amended Complaint.

10 **B. Plaintiffs’ Second Amended Complaint**

11 Under Oregon law, female genital mutilation is a crime. Compl ¶ 45 (citing ORS
12 163.207). Oregon law also requires the Oregon Health Authority to educate the public about the
13 risks and harms of female genital cutting. Compl ¶ 45 (citing ORS 431A.600). Plaintiffs allege
14 that those statutes unconstitutionally discriminate against males on the basis of sex in violation of
15 Article I, section 20, and Article I, section 46, of the Oregon Constitution. Compl ¶¶ 146–47,
16 151–52. Plaintiffs allege that male genital cutting and some forms of female genital cutting are
17 essentially the same, and thus, should be treated the same under the law. *See* Compl ¶ 46.

18 The individual Plaintiffs in this lawsuit allege that they have been harmed by Oregon’s
19 failure to prohibit male genital cutting. Four of the male Plaintiffs allege that they underwent
20 male genital cutting shortly after birth. Compl ¶¶ 113, 119, 128. Plaintiffs Dane Hadachek, Cecil
21 Mininger, Carter Moody, and Landon Moody had “parts of their genitals cut off” over a decade
22 ago. Compl ¶¶ 113, 119, 128. The one female Plaintiff, Sierra Hadachek, is Plaintiff Dane
23 Hadachek’s mother and Plaintiff Cecil Mininger’s wife. Compl ¶ 123. She consented to Plaintiff
24 Dane Hadachek’s genital cutting, and she alleges that she suffered emotional and physical harm
25 from observing that procedure. Compl ¶¶ 124–125. Plaintiffs John Doe 1 and John Doe 2 are
26

1 both intact male minors.² Compl ¶ 129. They allege that their legal guardians “may at any time
2 authorize the amputation of their foreskins without their consent.” Compl ¶ 130.

3 Based on those alleged injuries, Plaintiffs allege that they “have suffered and continue to
4 suffer irreparable harm from Oregon’s disparate treatment of male and female children.” Compl
5 ¶ 112. Plaintiffs ask this Court to declare that the challenged statutes banning female genital
6 mutilation, ORS 163.207 and ORS 431A.600, are unconstitutional sex discrimination under
7 Article I, section 20, and Article I, section 46, of the Oregon Constitution, and to enjoin the State
8 from “continuing to engage in such disparate treatment of children on the basis of sex.” Compl
9 ¶¶ 154, 155.

10 C. Standard of Review

11 ORCP 21 A(1) provides for dismissal of a complaint for lack of subject matter
12 jurisdiction. If “it appears . . . that the court lacks jurisdiction over the subject matter, the court
13 must dismiss the action.” ORCP 21 G(4). “Circuit courts have subject matter jurisdiction over all
14 actions unless a statute or rule of law divests them of jurisdiction.” *Greeninger v. Cromwell*,
15 127 Or App 435, 438 (1994). When considering a motion to dismiss for lack of subject matter
16 jurisdiction, the court may decide disputed jurisdictional facts based on evidence submitted by
17 the parties, so long as it does not, at that stage, decide disputed facts that go to the merits of the
18
19

20 ² Defendant objects to Plaintiffs’ attempt to include “John Doe 1” and “John Doe 2” in this
21 lawsuit for failing to comply with applicable rules of civil procedure. Multnomah County Circuit
22 Court Supplementary Local Rule 2.035 (“SLR 2.035”) requires parties to seek a court order
23 allowing them to designate a *known* party by a fictitious name and reserves the name “John Doe”
24 for “a party whose identity is *unknown* and the party is designated as provided in ORCP 20 H.”
25 The allegations in the Second Amended Complaint appear to indicate that the identity of John
26 Doe 1 and John Doe 2 are known to Plaintiffs. *See e.g.*, Compl ¶ 129 (alleging that the two John
Doe are “unrelated intact male minors born and residing in Oregon”). However, Plaintiffs have
not sought authority from the Court to use these fictitious names. Defendant respectfully requests
that this Court construe this objection as a motion to strike the allegations relating to Plaintiffs
John Doe 1 and John Doe 2 for not complying with SLR 2.035, or alternatively, as explained
below in Section I.D.2, because Plaintiffs John Doe 1 and John Doe 2 do not have standing to
sue on their own behalf.

underlying claim. *Munson v. Valley Energy Investment Fund*, 264 Or App 679, 695 (2014) (citing *Black v. Arizala*, 337 Or 250, 265 (2004)).

D. Argument

Courts do not have jurisdiction to entertain claims where no justiciable controversy exists. *Cummings Constr. v. School Dist. No. 9*, 242 Or 106, 113 (1965). Oregon courts ask two questions to determine justiciability: (1) whether the legislature has imposed statutory standing requirements and (2) whether the case is justiciable under the Oregon Constitution. *See Board of Cty. Comm. of Columbia Cty. v. Rosenblum*, 324 Or App 221, 235–37 (2023) (explaining the Oregon Supreme Court’s approach to constitutional justiciability as clarified in *Couey v. Atkins*, 357 Or 460 (2015)). Although the analyses are similar in the context of declaratory judgments, they are distinct doctrines, and thus, Defendant addresses them separately.

1. Plaintiffs lack standing under the Uniform Declaratory Judgments Act.

The Uniform Declaratory Judgments Act imposes a jurisdictional standing requirement. *Couey*, 357 Or at 469 (“To maintain a declaratory judgment action, a plaintiff must establish at the outset that he or she satisfies the statutory requirements for standing to bring the action.”). If a plaintiff does not have standing, the action for a declaratory judgment must be dismissed. *See Gortmaker v. Seaton*, 252 Or 440, 442 (1969) (when a party seeking declaratory relief lacked standing, the action “must be dismissed without a decision on the merits”).

To have standing under the Uniform Declaratory Judgments Act (ORS 28.010 to ORS 28.160) a person suing to obtain an interpretation of a statute must first show that his or her rights, status, or other legal relations are sufficiently affected by the statute:

Any person . . . whose rights, status or other legal relations are affected by a constitution, [or] statute . . . may have determined any question of construction or validity arising under any such . . . constitution [or] statute . . . and obtain a declaration of rights, status or other legal relations thereunder.

ORS 28.020. The test for whether this requirement is met involves “three related but separate considerations.” *Morgan v. Sisters Sch. Dist. No. 6*, 353 Or 189, 195 (2013).

1 First, a plaintiff must demonstrate “‘some injury or other impact upon a legally
2 recognized interest beyond an abstract interest in the correct application or the validity of a
3 law.’” *Id.* (quoting *League of Oregon Cities v. State of Oregon*, 334 Or 645, 658 (2002)).

4 Second, a plaintiff must show that “the identified rights, status, or other legal relations are
5 ‘affected’ by the targeted statute or provision.” *Footte v. State*, 364 Or 558, 563 (2019). That
6 effect of the challenged statute must be “real or probable, not hypothetical or speculative.” *MT &
7 M Gaming, Inc. v. City of Portland*, 360 Or 544, 555 (2016).

8 Third, “‘the court’s decision must have a practical effect on the rights that the plaintiff is
9 seeking to vindicate . . . [, i.e., t]he relief that the plaintiff seeks, if granted, must redress the
10 injury that is the subject of the declaratory judgment action.’” *Footte*, 364 Or at 563 (quoting
11 *Morgan*, 353 Or at 197). “Unless the relief that the plaintiff seeks would ‘redress the injury that
12 is the subject of the declaratory judgment action,’ a court cannot enter a declaratory judgment in
13 the plaintiff’s favor, because such a declaration would ‘amount to no more than an advisory
14 opinion.’” *Childers Meat Co. v. City of Eugene*, 296 Or App 668, 685 (2019) (quoting *Morgan*,
15 353 Or at 197).

16 Those requirements are not satisfied here. As to the first and second requirements
17 regarding their alleged injury, Plaintiffs fail to identify any specific or non-speculative harm.
18 Plaintiffs, like all Oregonians, have a legally recognized interest under the Oregon Constitution
19 to be free from sex discrimination. Or Const, Art I, § 46 (“Equality of rights under the law shall
20 not be denied or abridged . . . on account of sex.”). However, the Plaintiffs in this case are in a
21 position no different than any other Oregonian with a policy interest in this issue. They seek to
22 overturn laws protecting children from female genital mutilation for unconstitutionally failing to
23 protect children against male genital cutting. That is a classic “abstract interest in the correct
24 application or the validity of a law.” *Morgan*, 353 Or at 195 (internal quotation marks and
25 citation omitted). Additionally, Plaintiffs’ allegations of harm demonstrate that their claimed
26 harm is speculative. For example, Plaintiffs Dane Hadachek, Cecil Mininger, Sierra Hadachek,

1 Carter Moody, and Landon Moody speculate that, had male genital cutting been illegal many
2 years ago, they would not have been harmed, or they would not have been presented with the
3 choice to have their child circumcised. *See, e.g.*, Compl ¶ 28 (“If ORS 163.207 and 431A.600
4 did not use a facial sex classification in prohibiting child genital cutting, Plaintiffs would
5 probably not have been genitally cut.”); Compl ¶ 122 (“If Oregon protected all children equally
6 against non-medically necessary genital cutting, Cecil would not have suffered physical and
7 emotional harm associated with his and his son’s genital cuttings.”); Compl ¶ 126 (“[Sierra
8 Hadachek] allowed physicians to cut off parts of [Dane’s] genitals[.]”).

9 The intact Plaintiffs, John Doe 1 and John Doe 2, also allege only speculative harms.
10 They allege that they “may at any time” undergo male genital cutting, based on their guardians’
11 decision. That alleged harm depends on their guardians’ decision to have Plaintiffs John Doe 1
12 and John Doe 2 cut, and no facts indicate that that decision is imminent or has been made. It may
13 well be that John Doe 1 and John Doe 2 never undergo male genital cutting. Thus, any harm to
14 Plaintiffs John Doe 1 and John Doe 2 is also speculative. *See Hinkley v. Eugene Water &*
15 *Electric Board*, 189 Or App 181, 188 (2003) (finding that the “stacking of supposition and
16 speculation is insufficient to establish standing” under the Uniform Declaratory Judgments Act).

17 As to the third requirement, Plaintiffs fail to demonstrate that their requested relief will
18 have a practical effect on their rights or will redress any of their alleged injuries. Plaintiffs seek a
19 declaration that ORS 163.207 and ORS 431A.600 are unconstitutional under Article I, section
20 20, and Article I, section 46, of the Oregon Constitution. Compl ¶¶ 152, 153. They also seek to
21 “enjoin Oregon from continuing to engage in such disparate treatment of children on the basis of
22 their sex.” Compl ¶¶ 152, 153. If Plaintiffs were to prevail in this case and receive a declaratory
23 judgment that the two statutes are unconstitutional, there would be *no* change in the legal status
24 of male genital cutting, the current practice that is the source of Plaintiffs’ alleged harms.
25 Plaintiffs fail to allege how a lack of a prohibition on female genital mutilation would have
26 prevented them from undergoing, or from consenting to their children undergoing, male genital

1 cutting, or, more importantly, how it would remedy their currently alleged harms related to the
2 procedure.

3 This Court cannot redress the fact that the four identified male Plaintiffs underwent male
4 genital cutting many years ago or that Plaintiff Sierra Hadachek consented to her son undergoing
5 the procedure. *See Nordbye v. BRCP/GM Ellington*, 271 Or App 168, 180 (2015) (holding that a
6 plaintiff who did not qualify for the housing program lacked standing to challenge a decision to
7 evict her because even a favorable decision would not have a practical effect on her rights when
8 she would not qualify to move back into the complex under any circumstances). Nor could the
9 Court’s declaration that the challenged statutes are unconstitutional redress the alleged future
10 injury to Plaintiffs John Doe 1 and John Doe 2: A determination that female genital mutilation
11 prohibitions are unconstitutional does not change the legality of male genital cutting or prevent
12 the parents of both minors from electing the procedure or not. Thus, that relief cannot provide the
13 protection against male genital cutting that Plaintiffs are seeking.

14 Finally, Plaintiffs’ request—“[t]hat the Court inform the Oregon Legislative Assembly of
15 the above declarations so that the Assembly may enact sex-neutral child genital cutting
16 policies”—demonstrates the inadequacy of the relief they seek from this Court. *See Compl* ¶ 156.
17 This novel form of requested relief acknowledges that the actual purpose of this lawsuit is not to
18 address actual harm faced by these Plaintiffs, but to use this case as a springboard for legislative
19 reform. A “practical effect” in this case depends on the legislature responding to a ruling from
20 this Court, drafting a bill that does not infringe on constitutional rights, passing that bill out of
21 committee, and passing it in both the House and the Senate. The Court should reject Plaintiffs’
22 invitation to engage in work outside of its judicial role. Accordingly, the Court should dismiss
23 the Second Amended Complaint because Plaintiffs have failed to establish standing under the
24 Uniform Declaratory Judgments Act.

1 **2. Plaintiffs’ claims are not justiciable under the Oregon Constitution.**

2 Article VII (Amended), section 1, of the Oregon Constitution imposes justiciability
3 requirements in addition to the statutory standing requirements. *Petix v. Gillingham*, 325 Or App
4 157, 163 (2023) (citing *Beck v. City of Portland*, 202 Or App 360, 363 (2005)). There are “two
5 irreducible requirements” that a plaintiff must satisfy to establish that a case is justiciable: (1)
6 “the dispute must involve ‘present facts’ as opposed to a dispute which is based on future events
7 of a hypothetical issue” and (2) “a prevailing plaintiff can receive ‘meaningful relief’ from a
8 losing defendant through a binding decree as opposed to an advisory opinion.” *Rudder v.*
9 *Hosack*, 317 Or App 473, 478 (2022) (quoting *Hale v. State of Oregon*, 259 Or App 379, 384
10 (2013), *rev den*, 354 Or 84 (2014)). Those requirements are substantially similar to the statutory
11 standing requirements in the Uniform Declaratory Judgments Act.

12 The “present facts” requirement is satisfied if a dispute “‘involves the interpretation of an
13 existing statute that could apply to a party in the future.’” *Rudder*, 317 Or App at 479 (quoting
14 *Hale*, 259 Or App at 384) (determining that a suit was “based on present facts” when plaintiffs
15 had received a letter from DEQ notifying them that they were responsible parties who were
16 required to clean up an oil leak). The present facts inquiry is sometimes discussed in terms of
17 ripeness, and it serves to prevent the court from issuing decisions on hypothetical facts. *Beck*,
18 202 Or App at 370–71.

19 The “meaningful relief” requirement is satisfied if a dispute involves “‘a real and
20 substantial controversy admitting of specific relief through a decree of conclusive character.’”
21 *Rudder*, 317 Or App at 479–80 (quoting *Cummings Constr.*, 242 Or at 111). Meaningful relief is
22 available where, absent a declaratory judgment, a plaintiff would be legally obligated to clean up
23 environmental contamination and cover the costs for it, *Rudder*, 317 Or App at 480, and where a
24 declaration construing the meaning of an easement for a city’s placement of utilities would
25 “finally resolve” the controversy over pipes on the plaintiffs’ property, *Courter v. City of*
26 *Portland*, 286 Or App 39, 49 (2017). But “meaningful relief” does not exist if it is dependent

1 upon “several contingencies.” *Hale*, 259 Or App at 386–88 (holding that declaratory relief would
2 not have “an actual concrete impact on plaintiffs’ rights” until a series of hypothetical events had
3 occurred, and thus, the claim was not justiciable). In short, to satisfy the “meaningful relief”
4 requirement of justiciability, the relief that a party seeks must directly address and resolve the
5 injury that a plaintiff alleges.

6 Plaintiffs have failed to satisfy either requirement. First, Plaintiffs’ allegations
7 demonstrate that this lawsuit is not based on present facts but on their past experiences with
8 genital cutting. *See e.g.*, Compl ¶ 119 (“Shortly thereafter [in 1985] . . . Cecil had parts of his
9 genitals cut off[.]”); Compl ¶ 120 (“[A]t the time of his genital cutting [in 1985], Cecil was
10 denied the equal protection of the law[.]”); Compl ¶ 121 (“Cecil is very angry that Oregon law
11 [in 1985] did not protect him from genital cutting[.]”). Because no allegations in the Second
12 Amended Complaint demonstrate that either challenged statute could apply to any of the
13 Plaintiffs in the future, this lawsuit is not based on “present facts.”

14 The first challenged statute, ORS 163.207, prohibits individuals from “[k]nowingly
15 circumcis[ing], excis[ing] or infibulate[ing] the whole or any part of the labia majora, labia
16 minora or clitoris of a child.” The allegations are clear that the four identified male Plaintiffs
17 underwent male genital cutting as children, that all but one of those Plaintiffs is currently an
18 adult, and that no Plaintiff underwent female genital mutilation as a child. Plaintiffs Dane
19 Hadachek, Cicil Mininger, Sierra Hadachek, Carter Moody, and Landon Moody either already
20 underwent male genital cutting or are adults outside the protection of the challenged statute, thus
21 they are not at risk of being a child who is non-consensually cut in the future. Thus, ORS
22 163.207 cannot apply to any of those Plaintiffs in the future. Similarly, Plaintiffs John Doe 1 and
23 John Doe 2 are intact male minors whose guardians allegedly “may at any time authorize the
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1 amputation of their foreskins without their consent.”³ Compl ¶ 130. However, ORS 163.207 does
2 not prohibit the cutting of male foreskins. It only prohibits the cutting of the labia majora, labia
3 minora, or clitoris. ORS 163.207. Because Plaintiffs John Doe 1 and John Doe 2 are males, ORS
4 163.207 cannot be applied to them in the future either. Even though ORS 163.207 applies
5 generally to the people of Oregon, that is not sufficient to establish that the dispute is based on
6 “present facts.” *See Pendleton School Dist. v. State of Oregon*, 345 Or 596, 604–06 (2009)
7 (explaining that “present facts” requires that the challenged statute has an effect on the parties in
8 the case). Because there is no way in which ORS 163.207 “could apply to a party in the future,”
9 any dispute about its constitutionality is not based on present facts.

10 The other statute, ORS 431A.600, also could not apply to Plaintiffs in the future. That
11 statute imposes an obligation on the Oregon Health Authority to engage in education and
12 outreach around the risks and harms of female genital mutilation in certain communities. ORS
13 431A.600. Plaintiffs have not alleged that they have received any education or outreach under
14 that statute, nor have they alleged that they are part of any community that “traditionally
15 practice[s] female circumcision, excision or infibulation.” ORS 431A.600. That statute imposes
16 no obligation that applies or relates to Plaintiffs. As with ORS 163.207, any dispute about the
17 constitutionality of ORS 431A.600 is not based on present facts because there is no way that the
18 statute could have a legal impact on any of the Plaintiffs in the future.

19 Second, even if Plaintiffs’ constitutional challenges were based on present facts, their
20 claims are not justiciable because they have not established that they will receive meaningful
21 relief through this lawsuit. As discussed above in Section I.D.1, a declaration that the challenged
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23 ³ No allegations in the Second Amended Complaint suggest that the parents or guardians of John
24 Doe 1 and John Doe 2 have any intention to have Plaintiffs John Doe 1 and John Doe 2 undergo
25 male genital cutting. *See* Compl ¶¶ 129–30. Regardless, as the allegations in the Second
26 Amended Complaint suggest, male circumcision is generally an elective procedure that a parent
chooses for their child. *See* Compl ¶ 130 (guardians may authorize foreskin cutting); Compl ¶ 88
(alleging that parents are prohibited from choosing to have their female children’s genitals cut
but are allowed to choose to have their male children’s genitals cut).

1 statutes are unconstitutional would not affect Plaintiffs in this case because any actual relief to
2 Plaintiffs would require legislative action in addition to a ruling from this Court, and thus it relies
3 on “several contingencies.” *Hale*, 259 Or App at 386–88. Moreover, no legal rights or
4 obligations would flow to Plaintiffs from a declaration that the female genital mutilation statutes
5 are unconstitutional because the constitutionality of those statutes does not change the legal
6 status of male genital cutting.

7 Nor would an injunction against the state result in meaningful relief. As discussed above,
8 if the state were enjoined from enforcing ORS 163.207, the result would not be a prohibition on
9 male genital cutting. Nor would an injunction against the education and outreach statute, ORS
10 431A.600, result in OHA being required to engage in any education or outreach around male
11 genital cutting. An injunction would only result in no prohibition on female genital mutilation
12 and no obligation to prevent female genital mutilation under state law. That injunction would not
13 provide meaningful relief to Plaintiffs because it would not affect Plaintiffs’ rights. That is,
14 because they have already suffered the alleged injury of not being protected from undergoing
15 male genital cutting—an irreversible past event—an injunction would not change that fact, and
16 they would continue to be able to choose not to have any future children undergo male genital
17 cutting. Thus, any relief that Plaintiffs could receive upon prevailing in this case would not be
18 meaningful relief, and their claims are therefore not justiciable.

19 **3. Plaintiffs’ claims are not justiciable under ORS 14.175.**

20 Plaintiffs alternatively allege that this case is justiciable under ORS 14.175, which is an
21 exception to the rule against mootness. Compl ¶ 31. ORS 14.175 (allowing a party to “continue
22 to prosecute the action” and allowing the court to decide an issue even when the challenged
23 action “no longer has a practical effect on the party”). Plaintiffs’ reliance on ORS 14.175 is
24 misplaced.

25 When a case no longer has a practical effect on a party, it is moot. *Couey*, 357 Or at 477.
26 Moot cases are not justiciable. *Id.* at 469. However, ORS 14.175 allows courts to decide the

1 constitutionality of an act, policy, or practice that no longer has a practical effect on a party if the
2 court makes three determinations: (1) that “[t]he party had standing to commence the action”;
3 (2) that the challenged policy “continues in effect”; and (3) that “[t]he challenged policy . . .
4 [is] likely to evade judicial review in the future.” *Couey*, 357 Or at 476–77 (quoting ORS
5 14.175). If all three of those requirements are met, the court may decide the validity of the
6 challenged policy if a decision is appropriate under the circumstances of the case. *Id.* at 522.

7 The first requirement is not met in this case. As explained above, Plaintiffs lack standing
8 under the Uniform Declaratory Judgments Act to commence this action. A declaration that the
9 challenged statute is unconstitutional would have no practical effect on the parties if issued at the
10 time Plaintiffs filed the Second Amended Complaint. Moreover, Plaintiffs identify no facts that
11 have changed since they filed the complaint—nothing indicates that this case has become moot
12 in the few months that it has been pending.⁴ ORS 14.175 contemplates the resolution of cases
13 that become moot while they are pending, not cases that were moot from the outset. *See Couey*,
14 357 Or at 469–70 (holding that a plaintiff must satisfy the standing requirements “at the outset”
15 of the case and that the “concrete stake in the outcome must continue throughout the pendency of
16 the case”). Plaintiffs therefore cannot invoke ORS 14.175 as a basis for establishing a justiciable
17 controversy when they lack a concrete stake in the outcome at the time they filed their first
18 Complaint, First Amended Complaint, or Second Amended Complaint. The ORS 14.175
19 requirement that “[t]he party had standing to commence the action” is not satisfied, and
20 Plaintiffs’ claims are not justiciable.

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24 ⁴ Moreover, Plaintiffs just filed their Second Amended Complaint on July 17, 2025, which
25 provided them the opportunity to add any additional facts that would demonstrate that they had
26 standing to initiate this case, but that subsequent events had mooted this case. No such facts were
alleged, and the addition of two intact male minor Plaintiffs does not affect the analysis under
ORS 14.175.

1 **4. Plaintiffs Dane Hadachek, John Doe 1, and John Doe 2 do not have standing**
2 **to sue on their own behalf.**

3 Additionally, under Oregon law, a child “has no standing to bring an action before
4 attaining the age of majority.” *Christiansen v. Providence Health System*, 344 Or 445, 455
5 (2008). The age of majority in Oregon is 18. *Id.*; ORS 109.510. ORCP 27 A requires minors to
6 appear in a legal action through a guardian, conservator, or guardian ad litem appointed by the
7 court. For minors older than 14 who are plaintiffs, the minor must apply to the court to appoint a
8 guardian ad litem. ORCP 27 B(1)(a). For minors under 14 who are plaintiffs, a relative, friend, or
9 other interested person must apply to the court to appoint a guardian ad litem. ORCP 27 B(1)(b).
10 Generally, a minor cannot file an action in court without a conservator or guardian ad litem.
11 *Christiansen*, 344 Or at 455.

12 Here, none of the minor Plaintiffs have asked this Court to appoint a guardian ad litem,
13 and none of their parents have sought to file on behalf of the minor Plaintiffs. Plaintiff Dane
14 Hadachek is 17 years old. Compl ¶ 113. The Second Amended Complaint alleges that he is
15 appearing on his own behalf. Compl ¶¶ 1, 113; Compl at 1 (captioning the case as “Dane
16 Hadachek, an individual”). Plaintiffs John Doe 1 and John Doe 2 are minors. Compl ¶ 129. Their
17 age is not alleged in the Second Amended Complaint. See Compl ¶¶ 129–30. The Second
18 Amended Complaint alleges that they are appearing on their own behalf. Compl ¶¶ 1, 129;
19 Compl at 1 (captioning the case as “John Doe 1, and individual & John Doe 2, an individual”).
20 Because minors do not have standing to bring an action until they reach the age of majority,
21 Plaintiffs Dane Hadachek, John Doe 1, and John Doe 2 do not have standing to bring this suit
22 and their claims against Defendant must be dismissed.

23 ///

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25 ///

II. CONCLUSION

This Court does not have subject matter jurisdiction over this case. Because Plaintiffs have only an abstract interest in the application of the challenged laws, allege only speculatively that the challenged provisions affect their rights, and request relief that would not have a practical effect on them, they have not satisfied the standing requirements under the Uniform Declaratory Judgments Act. Even if Plaintiffs had standing under the Uniform Declaratory Judgments Act, this case is not justiciable under the Oregon Constitution because Plaintiffs' injuries are not based on "present facts," nor will the relief sought provide "meaningful relief" directly to Plaintiffs. Plaintiffs cannot avoid those standing and justiciability requirements by invoking ORS 14.175 because that statute requires Plaintiffs to have had standing when they initiated suit, which they do not have. Finally, Plaintiffs Dane Hadachek, John Doe 1, and John Doe 2 do not have standing to bring this lawsuit because they are minors lacking the legal capacity to sue on their own behalf under Oregon law. Thus, this Court should grant Defendant's Motion to Dismiss for lack of subject matter jurisdiction.

DATED July 23, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on July 23, 2025, I served the foregoing DEFENDANT'S MOTION TO DISMISS upon the parties hereto by the method indicated below, and addressed to the following:

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