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

6 DANE HADACHEK, NATHANIEL
HELLEWELL, and LANDON MOODY,
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8 Plaintiffs,
9
10 v.
THE STATE OF OREGON,
11 Defendant.

Case No. 25CV18224

**MOTION FOR LEAVE TO APPEAR
AS AMICI CURIAE**

12 **UTCR 5.010 CONFERRAL**

13 Conferral under UTCR 5.010 is not required for this motion. However, prior to filing this
14 motion, counsel for proposed *amici* contacted counsel for plaintiffs and counsel for defendant
15 and no party opposes this motion.

16 **MOTION**

17 Pursuant to ORCP 14 and the Court's inherent authority, Equality Now, the U.S. End
18 FGM/C Network, and Sahiyo seek leave to appear as *amici curiae*. Proposed *amici* seek leave to
19 file the attached brief in support of defendant and to be heard at any argument on the matter to
20 the extent that it would assist the Court.¹

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 Pursuant to ORCP 14, Equality Now, the U.S. End FGM/C Network, Sahiyo seek leave
23 to appear as *amici curiae*.² This case concerns the constitutionality of ORS 163.207 and ORS
24 431A.600, which are Oregon's laws prohibiting female genital mutilation/cutting ("FGM/C")

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26 ¹ Proposed *amici*'s brief in support of Defendant is attached as Exhibit A to this Motion.

27 ² A description of each proposed *amicus curiae* is attached as an Appendix to this Motion.

1 and requiring education, prevention, and outreach in affected communities. Plaintiffs challenge
2 these statutes under Article I, sections 20 and 46 of the Oregon Constitution, arguing that they
3 constitute impermissible sex discrimination because they do not also prohibit male circumcision.
4 Proposed *amici* seek leave to file a brief in support of defendant and Oregon’s FGM/C statutes.

5 **I. Identity and Expertise of Proposed Amici**

6 Proposed *amici* are international and national human rights organizations with extensive
7 expertise in the elimination of FGM/C and the protection of the rights of women and girls. As is
8 evident from the descriptions set forth in the Appendix to this motion, each of the proposed
9 *amici* work daily to combat FGM/C through legal reform, survivor-centered advocacy, policy
10 development, and public education. Equality Now is a worldwide human rights organization
11 founded in 1992 that has been at the forefront of global and domestic efforts to eradicate
12 FGM/C, including through the submission of *amici* briefs before the United States Supreme
13 Court and other tribunals. The U.S. End FGM/C Network is a collaborative group of over 200
14 survivors, civil society organizations, and advocates committed to ending FGM/C in the United
15 States. Sahiyo is a United States-based nonprofit organization founded in 2015 by survivors and
16 advocates connected to the Dawoodi Bohra community, dedicated to ending FGM/C through
17 dialogue, education, and survivor-centered advocacy. Proposed *amici* bring a perspective
18 grounded in decades of research and advocacy on the purpose, necessity, and design of FGM/C
19 legislation – a perspective that is distinct from and complementary to the defendant’s position.

20 **II. Relevance of the Proposed Brief**

21 Proposed *amici*’s brief addresses issues central to the resolution of this case. The brief
22 provides the Court with: (i) an explanation of FGM/C, including its prevalence in Oregon and the
23 documented physical, psychological, and social harms it inflicts on women and girls; (ii) an
24 analysis of the international and comparative law framework that uniformly recognizes FGM/C
25 as a distinct human rights violation, including treaties to which the United States is bound; (iii)
26 case law from multiple jurisdictions establishing that FGM/C and male circumcision are legally
27

1 and factually distinct practices; and (iv) the concrete harm that would result from nullifying ORS
2 163.207 and ORS 431A.600.

3 **III. The Proposed Brief Will Assist the Court**

4 Trial courts have wide latitude to control their dockets and proceedings, and well within
5 that discretion is the authority to allow parties to appear as *amici curiae*. See, e.g., *Stevens v.*
6 *City of Cannon Beach*, 317 Or 131, 137 (1993) (discussing appearance of *amici* at trial court and
7 on appeal). As Judge Wittmayer explained:

8 The Court has inherent power to control its proceedings. In the absence of
9 legislative or rule-based prohibitions, the Court has the power to decide if Amici is
10 of assistance to the Court. As a general principle, the role of Amici is to present to
the Court issues beyond the more narrow and limited positions of the parties. The
memorandum Amici seeks to submit does exactly that.

11 *Doe v. Corp. of the Presiding Bishop*, No. 0710-11294, 2010 WL 9932503 at *2 (Or.
12 Cir., June 18, 2010). As in that case, the proposed *amici* seek to assist this Court by offering an
13 informed perspective on international and comparative human rights law, the global legislative
14 consensus against FGM/C, and the distinctive character of FGM/C as a form of gender-based
15 violence —subjects on which proposed *amici* possess expertise that may not otherwise be
16 presented to the Court. The filing of this brief will not disrupt the briefing schedule or prejudice
17 any party.

18 **CONCLUSION**

19 For the reasons set forth above, proposed *amici* respectfully request that the Court grant
20 their motion for leave to appear as *amici curiae* and file the attached amicus brief.

21
22 DATED: July 23, 2026.

MARKOWITZ HERBOLD PC

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24
25 s/ Anit K. Jindal

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27 U.S. End FGM/C Network, and Sahiyo

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1 **APPENDIX**

2 **Description of Amici Curiae**

3 **I. Equality Now**

4 Equality Now is a worldwide human rights organization dedicated to ending
5 discrimination against women and girls through legal and systemic change. Founded in 1992, it
6 has led global campaigns to end FGM/C, contributed to the Maputo Protocol's recognition of
7 FGM/C as a human rights violation, and supported laws criminalizing the practice. Equality
8 Now has submitted amicus briefs before the U.S. Supreme Court and participated in *Kamau v.*
9 *Attorney General*, [2021] KEHC 450 (KLR), in which Kenya's High Court rejected a
10 constitutional challenge to its anti-FGM/C law on grounds materially identical to those raised
11 here. Equality Now takes no position on the regulation of male circumcision; its interest is
12 solely in preventing the invalidation of FGM/C protections.

13 **II. The U.S. End FGM/C Network**

14 The U.S. End FGM/C Network is a collaborative group of over 200 survivors, civil
15 society organizations, activists, policymakers, researchers, and healthcare providers committed
16 to promoting the abandonment of FGM/C. The Network serves as the primary source for
17 information and lead advocacy voice in the United States on ending FGM/C domestically and
18 globally.

19 **III. Sahiyo**

20 Sahiyo is a U.S.-based nonprofit dedicated to empowering communities to end female
21 genital cutting through dialogue, education, and collaboration. Founded in 2015 by survivors
22 and advocates connected to the Dawoodi Bohra community, a South Asian Muslim community
23 in which FGM/C is widely practiced, Sahiyo conducted the first global survey of Dawoodi Bohra
24 women on FGM/C, finding that 80% of respondents had been subjected to the harmful practice.
25 Sahiyo is a member of the U.S. End FGM/C Network and brings a perspective grounded in direct
26 engagement with communities practicing FGM/C.

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Case No. 25CV18224

**[PROPOSED] EQUALITY NOW, INC.,
THE U.S. END FGM/C NETWORK,
AND SAHIYO'S AMICI CURIAE
BRIEF IN SUPPORT OF STATE
DEFENDANTS**

13 **INTRODUCTION**

14 Plaintiffs ask this Court to choose between two remedies—*extending* the anti-female
15 genital mutilation/cutting (“FGM/C”)¹ statutes to cover male circumcision or *invalidating* them
16 entirely—either of which would represent an extraordinary and unwarranted judicial intrusion
17 into the legislature’s domain. (3d Am. Compl. at 15.) The Court should reject plaintiffs’
invitation to either rewrite or nullify ORS 163.207 and ORS 431A.600.

18 In this brief, *amici* will provide a brief explanation of FGM/C, including the present risk
19 of serious physical and psychological harm to girls in Oregon (Sect. I); the legislative basis and
20 history of FGM/C prohibitions internationally, nationally, and in Oregon, as well as the
21 compelling governmental interests they serve (Sect. II); the factual and legal distinctions
22 between FGM/C and male circumcision (Sect. III); that striking down the statute would inflict
23 harm on girls and would undermine equal-protection principles (Sect. IV); and that any remedy
24 lies with the legislature, not this Court.

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26
27 ¹ ‘FGM/C’ is encompassing of both female genital mutilation (FGM) and female genital
cutting (FGC).

INTEREST OF AMICUS CURIAE

A. Identity and experience of *amici*

Equality Now is a worldwide human rights organization dedicated to securing the legal and systemic change needed to end discrimination against all women and girls, everywhere in the world. Founded in 1992, one of Equality Now's first global campaigns called on the United Nations to dedicate more resources to end female FGM/C, and it played a critical role in adoption of the "Maputo Protocol" to the African Charter on Human and Peoples' Rights, a regional women's rights treaty which explicitly recognizes FGM/C as a human rights violation. At the national level, Equality Now has been at the forefront of efforts to eradicate FGM/C, pushing for laws that protect girls and prohibit the practice, and supporting grassroots activists working to end FGM/C in their communities. Equality Now has also submitted *amicus* briefs before various bodies, including the U.S. Supreme Court.²

The U.S. End FGM/C Network ("the Network") is a collaborative group of over 200 survivors, civil society organizations, foundations, activists, policymakers, researchers, healthcare providers, and others committed to promoting the abandonment of FGM/C. The Network serves as the main source for information and the lead advocacy voice in the United States on ending this harmful practice in the U.S. and around the world. Currently, the Network functions as a platform that facilitates collaboration and information sharing, empowers grassroots organizations, builds bridges between U.S.-based and international efforts to end FGM/C, influences policies and laws on FGM/C, and leads both national and global efforts to frame the issue of FGM/C in a broad and intersectional manner.

Sahiyo is a U.S.-based nonprofit dedicated to empowering communities to end female genital cutting through dialogue, education, and collaboration. Founded in 2015 by survivors and advocates connected to the Dawoodi Bohra community, a South Asian Muslim community

² See, e.g., *United States v. Nagarwala*, 350 F. Supp. 3d 613 (E.D. Mich. 2018), *appeal dismissed by United States v. Nagarwala*, No. 19-1015, 2019 WL 7425389 (6th Cir Sept. 13, 2019); *Sessions v. Morales-Santana*, 582 US 47 (2017); *Flores-Villar v. United States*, 564 US 210 (2011); *Tuan Anh Nguyen v. I.N.S.*, 533 US 53 (2001).

1 in which FGM/C is widely practiced, Sahiyo conducted the first global survey of Dawoodi Bohra
2 women on FGM/C, finding that 80% of respondents had been subjected to the harmful practice.
3 Sahiyo is a member of the U.S. End FGM/C Network and brings a perspective grounded in direct
4 engagement with communities practicing FGM/C.

5 **B. Scope of *amici*'s position**

6 *Amici* do not take a position for or against the regulation of male circumcision. Their
7 interest rests solely in preventing the invalidation of FGM/C protections under existing law.
8 *Amici* strongly support the preservation of laws that specifically prohibit FGM/C because they
9 are the result of decades of persistent advocacy by survivors and women's rights organizations.
10 Repealing or weakening them would jeopardize hard-won protections and could take years to
11 restore. We support amending FGM/C legislation only when it strengthens protections through
12 more comprehensive laws aimed at eliminating FGM/C in all its forms.

13 **C. Statement of authorship and funding**

14 *Amici* state as follows (1) no party's or party's counsel authored the brief in whole or in
15 part; (2) no party or party's counsel contributed money that was intended to fund preparing or
16 submitting the brief; and (3) no person other than *amici*, their members, or their counsel
17 contributed money that was intended to fund preparing or submitting the brief.

18 **ARGUMENT**

19 **I. What is FGM/C?**

20 The World Health Organization ("WHO"), the United Nations Children's Fund
21 ("UNICEF"), and the United Nations Population Fund ("UNFPA") jointly define FGM/C as
22 comprising "all procedures involving partial or total removal of the external female genitalia or
23 other injury to the female genital organs whether for cultural or other non-therapeutic reasons."³

24
25
26 ³ World Health Organization, et. al., *Female genital mutilation: a joint*
27 *WHO/UNICEF/UNFPA statement*, at 3, (1997), <http://iris.who.int/iris/handle/10665/41903> (last visited July 21, 2026).

According to this definition, FGM/C may be classified into four types, all of which are recognized as harmful forms of gender-based violence:⁴

- Type I (clitoridectomy): Partial or total removal of the clitoral glans, and/or the prepuce;
- Type II (excision): Partial or total removal of the clitoral glans and the labia minora, with or without removal of the labia majora;
- Type III (infibulation): Narrowing of the vaginal orifice with creation of a covering seal by cutting and re-positioning the labia minora and/or the labia majora, with or without removal of the clitoris;
- Type IV: All other harmful procedures to the female genitalia for non-medical purposes, including, for example, pricking, piercing, incising, scraping and cauterization.

FGM/C is normally carried out between infancy and age fifteen, although older girls and women may also be subjected to the practice.⁵ A joint statement issued by the WHO, UNICEF, UNFPA, and the United Nations Development Fund for Women emphasizes that “[f]emale genital mutilation of any type has been recognized as a harmful practice and a violation of the human rights of girls and women.”⁶ All forms can cause serious and well-documented complications and pathologies, both acutely and in the long term.⁷

⁴ World Health Organization, UNICEF, & UNFPA, *Female genital mutilation: a joint WHO/UNICEF/UNFPA statement*, 2 (1997), <http://apps.who.int/iris/handle/10665/41903> (last visited July 20, 2026).

⁵ *FAQs on female genital mutilation (FGM)*, UN Women, <https://www.unwomen.org/en/articles/faqs/faqs-on-female-genital-mutilation-causes-impact-and-how-to-end-it> (last visited, July 21, 2026).

⁶ World Health Organization, et al., *Eliminating Female Genital Mutilation: An Interagency Statement*, at 8, (2008), <https://iris.who.int/server/api/core/bitstreams/66d6ff17-580f-4899-8a54-f0272dba187d/content> (last visited, July 21, 2026).

⁷ *FAQs on female genital mutilation (FGM)*, UN Women, <https://www.unwomen.org/en/articles/faqs/faqs-on-female-genital-mutilation-causes-impact-and-how-to-end-it> (last visited, July 21, 2026); *see also*, U.N. Committee on the Elimination of Discrimination against Women (CEDAW), *CEDAW Gen. Recommendation No. 19: Violence*

1 **A. FGM/C is a present, not hypothetical, risk to girls around the world,**
2 **including in the United States and in Oregon.**

3 According to official UNICEF figures, FGM/C affects at least 230 million women and
4 girls around the world.⁸ UNFPA further estimates that approximately 4.5 million girls are at risk
5 of being subjected to FGM/C in 2026 alone.⁹ Despite progress towards eradicating FGM/C, the
6 pace at which the practice is declining does not match the rate of population growth, and the
7 number of girls at risk annually is expected to rise to 4.6 million girls by the year 2030.¹⁰ Data
8 shows that FGM/C occurs in at least 94 countries.¹¹

9 In the United States, between 421,000 and 577,000 women and girls have undergone or
10 are at risk of FGM/C.¹² They may be subjected to FGM/C in their home state or taken to a
11 neighboring state or outside of the country, a practice known as “vacation cutting.” In Oregon
12 specifically, approximately 3,771 women and girls are living with FGM/C and another 444 are at
13 risk.¹³ Of those, around 1,007 are living with Type III (infibulation).¹⁴ FGM/C is often
14 considered and dealt with as an issue practiced only by specific communities. However, FGM/C

15 *Against Women*, (1992), <https://www.refworld.org/legal/resolution/cedaw/1992/96542> (last
16 visited July 21, 2026).

17 ⁸ *Female Genital Mutilation: A global concern, 2024 update*, UNICEF, (Mar. 7, 2024),
18 <https://data.unicef.org/resources/female-genital-mutilation-a-global-concern-2024/> (last visited
19 July 21, 2026).

20 ⁹ UNFPA, *UNFPA research on FGM highlights increased risk: A call for evidence and*
21 *action to end female genital mutilation by 2030*, at 4, (May 2023),
22 [https://www.unfpa.org/resources/unfpa-research-fgm-highlights-increased-risk-call-evidence-](https://www.unfpa.org/resources/unfpa-research-fgm-highlights-increased-risk-call-evidence-and-action-end-female-genital)
23 *and-action-end-female-genital* (last visited July 21, 2026).

24 ¹⁰ *Id.*

25 ¹¹ Equality Now, et al., *The Time Is Now: End Female Genital Mutilation/Cutting, Five*
26 *Year Update – 2025*, (2025), [https://equalitynow.org/wp-content/uploads/2025/02/The-time-is-](https://equalitynow.org/wp-content/uploads/2025/02/The-time-is-now-End-female-genital-mutilationcutting-an-urgent-need-for-global-response-2025-Full-Report-English.pdf)
27 *now-End-female-genital-mutilationcutting-an-urgent-need-for-global-response-2025-Full-*
28 *Report-English.pdf* (last visited July 21, 2026).

29 ¹² Sean Callaghan, *Female Genital Mutilation/Cutting (FGM/C) in the United States: A*
30 *study of the prevalence, distribution, and impact of FGM/C in the U.S., 2015-2019*, at 4, AHA
31 Foundation (Oct. 2023), <https://doi.org/10.31219/osf.io/7a9c3> (last visited July 21, 2026).

32 ¹³ *Id.* at 82.

33 ¹⁴ *Id.*

1 is also practiced by local U.S.-born communities and people from diaspora communities whose
2 countries of origin are not countries with a high prevalence of FGM/C. There is evidence of
3 FGM/C being practiced in Christian communities¹⁵ and in the Bohra community,¹⁶ among
4 others.

5 FGM/C is deeply rooted in discriminatory social norms aimed at controlling and
6 suppressing the freedom and sexuality of women and girls.¹⁷ In some communities, FGM/C is
7 seen as a rite of passage to womanhood. In others, it is a means of controlling a girl's sexuality
8 and to ensure her "purity" and fidelity for marriage. In all cases, FGM/C reinforces gender
9 inequality and patriarchy.

10 **B. The well-documented harms of FGM/C to women and girls are physical and**
11 **psychological.**

12 FGM/C is a public health issue with serious and well-documented complications and
13 pathologies, which can persist for a lifetime.¹⁸ The practice of FGM/C itself is traumatic— and
14 girls may be physically held down and subjected to the practice without anesthesia. Immediate
15 complications include pain, excessive bleeding, infection, swelling, problems with wound
16 healing and urinal retention, and even death. Notably, researchers have found that FGM/C Type
17 IV, sometimes trivialized as "nicking," presents a substantially similar risk of immediate health
18 complications to Types I and II.¹⁹

20 ¹⁵ A. Renee Bergstrom, *FGM happened to me in white, midwest America*, The Guardian
21 (Dec. 3, 2016), <https://www.theguardian.com/usnews/2016/dec/02/fgm-happened-to-me-in-white-midwestamerica> (last visited July 21, 2026).

22 ¹⁶ Harinder Baweja, *India's Dark Secret*, Hindustan Times (2016).
23 <https://www.hindustantimes.com/static/fgm-indias-dark-secret/> (last visited July 21, 2026).

24 ¹⁷ *FAQs on female genital mutilation (FGM)*, UN Women,
25 <https://www.unwomen.org/en/articles/faqs/faqs-on-female-genital-mutilation-causes-impact-and-how-to-end-it> (last visited, July 21, 2026).

26 ¹⁸ *Id.*

27 ¹⁹ Rigmor C. Berg, Vigdis Underland, *Immediate health consequences of female genital mutilation/cutting (FGM/C)*, Report from Kunnskapssenteret no. 8–2014. Oslo: Norwegian Knowledge Centre for Health Services, (2014),

1 All forms of FGM/C also have enduring health risks including recurrent infections,
2 complications during child birth, chronic pain, loss of sexual function, fistula, and adverse
3 obstetric outcomes.²⁰ This includes psychological harms like anxiety, depression, and post-
4 traumatic stress disorder.²¹ Further, the latest systematic review of evidence by the WHO found
5 that women who have undergone any type of FGM/C had a significantly increased risk of sexual
6 dysfunction as opposed to women who had not been subjected to FGM/C.²² FGM/C has no
7 known health benefits, only lifelong physical and psychological consequences for the women
8 and girls on whom it is performed.

9 Efforts to justify FGM/C by claiming it is performed in a medical setting have been
10 vigorously rejected by medical associations around the world, including the American Academy
11 of Pediatrics.²³ The WHO has emphasized that healthcare workers who carry out the practice are
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15 https://fhi.no/globalassets/dokumenterfiler/rapporter/2014/rapport_2014_8_immediate_fgm.pdf
16 (last visited July 21, 2026).

17 ²⁰ *FAQs on female genital mutilation (FGM)*, UN Women,
18 [https://www.unwomen.org/en/articles/faqs/faqs-on-female-genital-mutilation-causes-impact-and-](https://www.unwomen.org/en/articles/faqs/faqs-on-female-genital-mutilation-causes-impact-and-how-to-end-it)
19 [how-to-end-it](https://www.unwomen.org/en/articles/faqs/faqs-on-female-genital-mutilation-causes-impact-and-how-to-end-it) (last visited July 21, 2026).

19 ²¹ *Id.*

20 ²² See Christina Palitto et al., *Exploring the health consequences of female genital*
21 *mutilation through a systematic review and meta-analysis*, 25 BMC Public Health No. 1387
(2025), <https://doi.org/10.1186/s12889-025-21584-z> (last visited July 21, 2026).

22 ²³ UNFPA, *Policy Brief on the Medicalization of FGM*, (2018),
23 [https://www.unfpa.org/sites/default/files/resource-](https://www.unfpa.org/sites/default/files/resource-pdf/FGM_Policy_Brief_On_Medicalization_Brochure_-_PDF_June_18.pdf)
24 [pdf/FGM_Policy_Brief_On_Medicalization_Brochure_-_PDF_June_18.pdf](https://www.unfpa.org/sites/default/files/resource-pdf/FGM_Policy_Brief_On_Medicalization_Brochure_-_PDF_June_18.pdf) (last visited July 21,
25 2026); Janine Young et al., AAP SECTION ON GLOBAL HEALTH, AAP COMMITTEE ON
26 MEDICAL LIABILITY AND RISK MANAGEMENT, AAP COMMITTEE ON BIOETHICS.
27 *Diagnosis, Management, and Treatment of Female Genital Mutilation or Cutting in Girls*, 145
Pediatrics No. 6 (2020),
[https://publications.aap.org/pediatrics/article/146/2/e20201012/36886/Diagnosis-Management-](https://publications.aap.org/pediatrics/article/146/2/e20201012/36886/Diagnosis-Management-and-Treatment-of-Female)
[and-Treatment-of-Female](https://publications.aap.org/pediatrics/article/146/2/e20201012/36886/Diagnosis-Management-and-Treatment-of-Female) (last visited July 21, 2026). “Medicalization” is a term that describes
the practice of FGM/C by health-care providers, whether in a public or private clinic, at home, or
elsewhere.

actively causing physical and psychological harm, and helping perpetuate an abhorrent form of discrimination against women and girls.²⁴

II. The Legislative Basis and History of FGM/C Prohibitions and the Compelling Governmental Interests They Serve

A. The United States has banned FGM/C at the federal level, and nearly every state has criminalized FGM/C.

Official condemnation of FGM/C is the first step to eradicate it and protect women and girls. In the United States, FGM/C was federally outlawed in 1996 under the Federal Prohibition of Female Genital Mutilation Act, reflecting growing recognition of FGM/C as a form of gender-based violence warranting criminal sanctions. And Oregon responded in 1999 by enacting two laws (ORS 163.207 and ORS 431A.600) that prohibit FGM/C and require the State to implement education and outreach activities about the specific harms of FGM/C.

When the United States District Court for the Eastern District of Michigan declared the federal law unconstitutional, *see United States v. Nagarwala*, 438 F Supp 3d 821 (E.D. Mich. 2020), Congress promptly passed the Strengthening the Opposition to Female Genital Mutilation Act of 2020 (Public Law 116-309, “STOP FGM Act of 2020”), expressly grounding its authority to ban FGM/C in the U.S. Constitution’s Necessary and Proper Clause and the Commerce Clause. 18 U.S.C. § 116. The STOP FGM Act of 2020 prohibits FGM/C on minors, prohibits its facilitation by parents or guardians, prohibits transport of minors for the purpose of performing FGM/C, and requires annual reporting by the Department of Justice on data and efforts to end FGM/C. 18 U.S.C. § 116(a); 34 U.S.C. § 41312. These laws protect female anatomy from being circumcised, excised, or infibulated, because the State recognized that young girls needed to be protected from a harmful and sex-specific practice. As proponents of the bill explained, and as is supported by international organizations and courts, FGM/C is “an

²⁴ Ian Askew, *It’s our job as health workers to ‘do no harm,’* World Health Organization (May 16, 2016), <https://www.who.int/news-room/commentaries/detail/it-s-our-job-as-health-workers-to-do-no-harm> (last visited July 21, 2026).

1 extreme form of child abuse” and a “violation of women’s basic human rights.”²⁵ To date, 42
2 states (including Oregon) and the District of Columbia have enacted specific anti-FGM/C laws,
3 reflecting an unusual state-level consensus against FGM/C.

4 **B. International law recognizes FGM/C as torture.**

5 The international community has also repeatedly and unequivocally recognized FGM/C
6 as an extreme form of gender-based violence that can rise to the level of torture. This broad
7 global consensus, which is reflected in binding treaty obligations and near-universal legislative
8 practice, confirms the legitimacy and purpose of Oregon’s prohibition on FGM/C.

9 For example, in 1995, the Beijing Platform for Action identified FGM/C as a form of
10 violence against women.²⁶ In 2012, the U.N. General Assembly called on all States to prohibit
11 FGM/C,²⁷ and the UN General Assembly’s Sustainable Development Goals, adopted in 2015
12 with the support of the United States, committed to eliminating FGM/C by 2030.²⁸ As the
13 English House of Lords explained, FGM/C “has been condemned as cruel, discriminatory and
14 degrading by a long series of international instruments, declarations, resolutions,
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18 ²⁵ See House Floor Proceedings, HB 3608, May 12, 1999, Audio Recording at 35:49
19 (statement of Representative Gianella). The digitized audio recording is available through the
20 Oregon State Archives at
21 <https://records.sos.state.or.us/ORSOSCMSearch/Search/SearchDetail.aspx?uri=4173190> (last
visited July 21, 2026).

22 ²⁶ U.N. Fourth World Conference on Women, Action for Equality, Development and
23 Peace, ¶ 259 (describing female genital mutilation as a “harmful” practice); ¶ 283 (calling on
24 governments to “[e]nact and enforce legislation protecting girls from all forms of violence,
including . . . genital mutilation”) UN Women (Sept. 1995).
<https://www.un.org/womenwatch/daw/beijing/platform/girl.htm> (last visited July 21, 2026).

25 ²⁷ G.A. Res. 67/146, ¶ 2, U.N. Doc. A/RES/67/146 (Dec. 20, 2012),
<https://docs.un.org/en/a/res/67/146> (last visited July 21, 2026)

26 ²⁸ G.A. Res. 707/1, U.N. Doc. A/RES/70/1 (Sept. 25, 2015) at Goal 5.3 (“[e]liminate all
27 harmful practices, such as child, early and forced marriage and female genital mutilation”),
<https://docs.un.org/en/a/res/70/1> (last visited July 21, 2026).

1 pronouncements and recommendations,” and is a practice that “will almost inevitably amount
2 either to torture or to other cruel, inhuman or degrading treatment.”²⁹

3 Of the countries where FGM/C is practiced, approximately 62% have enacted specific
4 prohibitions against the practice. Since 2020 alone, Sudan, Indonesia, Finland, Poland, and the
5 United States (as discussed below) have enacted or strengthened federal laws, and the European
6 Union adopted a 2024 directive requiring all member states to criminalize FGM/C.³⁰ Courts
7 across these jurisdictions have uniformly rejected religious or cultural defenses to FGM/C.³¹
8 Oregon’s express exclusion of custom and ritual from its medical-necessity determination in
9 ORS 163.207 accords with this global standard.

10 The United States in particular has ratified a number of treaties that prohibit FGM/C.
11 These include the International Covenant on Civil and Political Rights (“ICCPR”), which
12 guarantees freedom from torture and cruel, inhuman, or degrading treatment (Art. 7), non-

14 ²⁹ *Fornah v. Sec’y of State for the Home Dep’t*, [2006] UKHL 46 [8], [94],
15 <https://publications.parliament.uk/pa/ld200506/ldjudgmt/jd061018/sshd-1.htm> (last visited July
21, 2026).

16 ³⁰ See Equality Now et al., *The Time is Now: End Female Genital Mutilation/Cutting*
17 *(FGM/C) — An Urgent Need for a Global Response* 57 (2025), pp. 9, 18, 58.

18 ³¹ See, e.g., *In re B and G (Children) (No. 2)*, [2015] 1 FLR 905, [2015] EWFC 3 [55-56],
19 [71] (the England & Wales Family Court holding that FGM/C “has no basis in any religion” and
20 is “an abuse of human rights”), [https://www.judiciary.uk/wp-](https://www.judiciary.uk/wp-content/uploads/2015/01/BandG_2_.pdf)
21 [content/uploads/2015/01/BandG_2_.pdf](https://www.judiciary.uk/wp-content/uploads/2015/01/BandG_2_.pdf) (last visited July 21, 2026); *P.(D.) v. S.(C.)*, [1993] 4
22 S.C.R. at 141, 182 (the Supreme Court of Canada holding that “freedom of religion, like any
23 freedom, is not absolute. It is inherently limited by the rights and freedoms of others. Whereas
24 parents are free to choose and practise the religion of their choice, such activities can and must
25 be restricted when they are against the child’s best interests, without thereby infringing the
26 parents’ freedom of religion.”); *Kamau v. Att’y Gen.*, [2021] KEHC 450, ¶ 26 (the Kenyan High
27 Court finding that “despite the rights enshrined in * * * the Constitution relating to culture,
religion, beliefs and language, the rights could be limited due to the nature of the harm resulting
from FGM/C to the individual’s health and well-being.”), <https://new.kenyalaw.org/akn/ke/judgment/kehc/2021/450/eng@2021-03-17> (last visited July 21,
2026); *Adelaide Co. of Jehovah’s Witnesses v. Commonwealth*, (1943) 67 C.L.R. 116, 155
(Austl.) (the High Court of Australia holding that religious freedom is constrained by the right of
other members of society to protection against “unsocial actions or actions subversive of the
community itself”), <https://www.hcourt.gov.au/sites/default/files/eresources/1943/HCA/12.pdf>
(last visited July 21, 2026).

1 discrimination (Arts. 2, 3) and the protection of children (Art. 24); and the Convention Against
2 Torture (“CAT”), which defines torture to include any act by which severe pain or suffering is
3 intentionally inflicted on a person for a discriminatory purpose (Art. 1), requires each state party
4 to “take effective legislative, administrative, judicial or other measures to prevent acts of torture”
5 within its jurisdiction (Art. 2), and extends these obligations to acts of cruel, inhuman, or
6 degrading treatment that do not rise to the level of torture (Art. 16). In 2023, the U.N. Human
7 Rights Committee, which oversees States’ compliance with the ICCPR (to which the United
8 States is a party), urged the United States to “effectively implement” the STOP FGM Act and to
9 strengthen constitutional protections against sex-based discrimination.³² And the U.N.
10 Committee against Torture (CAT Committee) has confirmed that FGM/C can constitute
11 torture,³³ and it regularly calls on States to outlaw FGM/C. Because the United States has
12 ratified these treaties, it has committed to the standard framework of international law to respect,
13 protect, and fulfill the right of women and girls to be free from FGM/C.

14 **III. FGM/C And Male Circumcision are Distinct**

15 Courts that have examined both practices have drawn a “clear distinction” between
16 FGM/C and male circumcision.³⁴ FGM/C is a form of gender-based violence rooted in the
17 control of women’s bodies and the perpetuation of gender inequality.³⁵ It is often performed to
18 suppress female sexuality and enforce harmful norms about purity, modesty, and obedience. In

19 ³² See U.N. Human Rights Comm. *Concluding Observations on the Fifth Periodic Report*
20 *of the United States*. U.N. Doc. CCPR/C/USA/CO/5, ¶¶ 20, 21(f) (Dec. 7, 2023).
21 <https://digitallibrary.un.org/record/4029375> (last visited July 21, 2026).

22 ³³ U.N. Committee against Torture, *General Comment No. 2: Implementation of article 2*
23 *by States parties*, U.N. Doc. CAT/C/GC/2, ¶ 18 (Jan. 24, 2008).
24 <https://digitallibrary.un.org/record/618009> (last visited July 21, 2026).

25 ³⁴ *In re B and G (Children)* (No. 2), [2015] 1 FLR 905, [2015] EWFC 3 [72-73],
26 https://www.judiciary.uk/wp-content/uploads/2015/01/BandG_2_.pdf (last visited July 21,
27 2026); *SS (Malaysia) v. Secretary of State for the Home Department*, [2013] EWCA Civ 888, ¶
14.

³⁵ *Female Genital Mutilation*, World Health Organization (Jan. 31, 2025),
<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation> (last visited July 21,
2026).

1 contrast, male circumcision is not typically rooted in exerting control over men as a group, nor is
2 it intended to suppress male sexuality. In terms of consequences and impact, FGM/C has no
3 medical benefits, and can cause severe and lifelong consequences, including chronic pain,
4 recurrent urinary and vaginal infections, complications in childbirth (e.g., obstructed labor), loss
5 of sexual sensation and pleasure, psychological trauma (e.g., anxiety, PTSD, depression), and
6 even death.³⁶ Certain types of FGM/C (Type II and III) are more invasive and differ
7 significantly from male circumcision.

8 Courts and legislatures across the globe have accordingly treated FGM/C and male
9 circumcision as distinct practices warranting different legal treatment. In highlighting the
10 patriarchal origins of the practice of FGM/C and the lasting effects on its victims, the U.K.
11 House of Lords noted that FGM/C “cannot in any way be compared to” male circumcision,
12 either physically or contextually, as “[i]n the case of girls and women, the phenomenon is a
13 manifestation of deep-rooted gender inequality that assigns them an inferior position in society
14 and has profound physical and social consequences.”³⁷ Similarly, the High Court of Kenya
15 rejected a constitutional challenge materially identical to this case. In *Kamau v. Attorney*
16 *General*, the petitioner argued that criminalizing female circumcision while permitting male
17 circumcision constituted unreasonable sex discrimination. The High Court of Kenya held that
18 the differential treatment was not unreasonable, crediting expert evidence that FGM/C causes
19 severe harms, including difficulty consummating marriages, obstructed childbirth, and death. As
20 “female circumcision was both harmful and with no health benefits,” the Court found that
21
22

23 ³⁶ *Id.*

24 ³⁷ See *Fornah v. Sec’y of State for the Home Dep’t*, [2006] UKHL 46 [91-93],
25 <https://publications.parliament.uk/pa/ld200506/ldjudgmt/jd061018/sshd-1.htm> (last visited July
26 21, 2026); see also *In Re B and G (Children) (No. 2)*, [2015] 1 FLR 905, [2015] EWFC 3 [60],
27 [64], [73] (the England and Wales Family Court likewise held that FGM of WHO Types I, II,
and III is “very much more invasive than male circumcision,” and that there is “a very clear
distinction in family law” between the two practices), [https://www.judiciary.uk/wp-
content/uploads/2015/01/BandG_2_.pdf](https://www.judiciary.uk/wp-content/uploads/2015/01/BandG_2_.pdf) (last visited July 21, 2026).

1 equating the two practices was flawed.³⁸ Further, the Finnish Supreme Court has also long
2 distinguished the two practices, holding that “circumcising a girl in reality means mutilating her
3 genitals and is thus clearly a more serious violation of their physical integrity,” and expressly
4 rejecting the argument that permitting male circumcision while punishing FGM/C constituted
5 gender discrimination, finding it “not reasonable to compare” the two.³⁹

6 These decisions underscore that prohibiting FGM/C while not simultaneously prohibiting
7 male circumcision is a rational legislative distinction, not an act of impermissible discrimination.

8 **A. There are compelling governmental interests served by maintaining the**
9 **existing law.**

10 Plaintiffs’ theory that anti-FGM/C laws “by implication, condone male circumcision” and
11 thereby inflict “stigmatic harm” on males, (3d Am. Compl. ¶¶ 8-9), is without merit. A
12 legislature’s decision to address one serious harm does not constitute an endorsement of other
13 practices it has not yet regulated. The Oregon legislature rightly concluded that FGM/C presents
14 distinct harms, and that its statutory prohibition is rationally related to multiple legitimate
15 governmental interests: protecting children from non-medically necessary physical injury,
16 preventing serious health and psychological harms, addressing a practice internationally
17 recognized as gender-based discrimination, preserving medically necessary care, and deploying
18 education and outreach to prevent harm before it occurs.⁴⁰

19 A classification based on specific biological differences between men and women is valid
20 if it is rationally related to the purposes of the statute.⁴¹ Nearly 30 years ago, the Oregon

21 ³⁸ *Kamau v. Att’y Gen.*, [2021] KEHC 450 (KLR), ¶¶ 116, 196-97,
22 <https://new.kenyalaw.org/akn/ke/judgment/kehc/2021/450/eng@2021-03-17> (last visited July 21,
23 2026).

24 ³⁹ *Finnish Circumcision Case*, Korkein oikeus [KKO] [Supreme Court] Oct. 17, 2008,
25 R/2007/500, ¶ 27 (Fin.), [https://www.korkeinoikeus.fi/ennakkopaatokset/eurooppaoikeudelliset-](https://www.korkeinoikeus.fi/ennakkopaatokset/eurooppaoikeudelliset-ratkaisut/kko200893-in-english/)
26 [ratkaisut/kko200893-in-english/](https://www.korkeinoikeus.fi/ennakkopaatokset/eurooppaoikeudelliset-ratkaisut/kko200893-in-english/) (last visited July 21, 2026).

27 ⁴⁰ ORS 163.207(1), (3); ORS 431A.600(1)-(3).

⁴¹ *McIntyre v. Crouch*, 98 Or App 462, 469 (1989); *cf. Nordlinger v. Hahn*, 505 U.S. 1,
10 (1992) (holding that a statutory classification that does not burden a fundamental right or
proceed along suspect lines is valid if it rationally furthers a legitimate governmental purpose).

1 legislature made a considered judgment to address a specific, well-documented harm (FGM/C)
2 that is medically and socially distinct from male circumcision. It is the prerogative of the
3 legislature to legislate distinct issues distinctly.⁴²

4 Finally, and most fundamentally, the challenged statutes serve the compelling interest of
5 preventing gender-based violence and discrimination against a particularly vulnerable class. In
6 Oregon specifically, more than 400 girls are at risk of FGM/C and nearly 3,800 women and girls
7 are living with its consequences.⁴³ The legislature’s decision to protect women and girls through
8 targeted criminal prohibition and community-based education and outreach is undeniably
9 rational.

10 **IV. Striking Down the Statutes Would Inflict Harm on Girls and Would Undermine** 11 **Equal-Protection Principles**

12 For decades, advocates in the United States have pressed for holistic laws against FGM/C
13 that address the unique harms posed by this human rights violation. As noted, the U.S.
14 Congress, 42 states, and the District of Columbia have enacted specific anti-FGM/C laws. But
15 criminalization alone is insufficient to end FGM/C, and research shows that comprehensive
16 approaches are required to respond effectively.⁴⁴ Laws should include provisions and funding
17 for sustained education and outreach, survivor services, and multi-sectoral stakeholder training.

20 ⁴² See *Williamson v. Lee Optical of Okla., Inc.*, 348 US 483, 489 (1955) (legislatures may
21 address problems “one step at a time, addressing itself to the phase of the problem which seems
22 most acute to the legislative mind. The legislature may select one phase of one field and apply a
23 remedy there, neglecting the others.”) (citations omitted); *Ry. Express Agency, Inc. v. Pople of*
State of New York, 336 US 106, 110 (1949) (the Equal Protection Clause does not require that
“all evils of the same genus be eradicated or none at all”) (citation omitted).

24 ⁴³ Sean Callaghan., *Female Genital Mutilation/Cutting (FGM/C) in the United States: A*
study of the prevalence, distribution, and impact of FGM/C in the U.S., 2015-2019, at 4 (2023),
AHA Foundation (Oct. 2023), <https://doi.org/10.31219/osf.io/7a9c3> (last visited July 21, 2026).

26 ⁴⁴ UNFPA & UNICEF, *Technical Guidance: A Comprehensive Approach to Accelerating*
the Elimination of Female Genital Mutilation, at 19, (2022),
27 <https://www.unicef.org/media/114111/file/FGM-Technical-Guidance-2022.pdf> (last visited July
21, 2026).

1 Statutes must also prohibit the transport of women and girls for “vacation cutting.”⁴⁵ Oregon’s
2 law against FGM/C, for example, contains education and outreach provisions tailored to
3 specifically address the root causes of FGM/C— effectively reaching communities and changing
4 cultural attitudes towards the practice.⁴⁶

5 Including male circumcision in Oregon’s anti-FGM/C laws or, in the alternative,
6 overturning those laws in their entirety would needlessly and negatively impact the continuing
7 work to end FGM/C. FGM/C and male circumcision are distinct in the context and purpose, and
8 thus require individually tailored legislative responses.⁴⁷ Because FGM/C is deeply rooted in
9 discriminatory social norms that are present in nearly all cultures, religions, and communities
10 across the world, it requires a multi-faceted approach that includes training law enforcement
11 officials and providing education for teachers, parents, faith-based leaders, and at-risk
12 communities;⁴⁸ developing prevention based methods and addressing FGM/C in healthcare
13 systems; providing financial support to the sector; and increasing awareness among various
14 stakeholders.⁴⁹ The approach will inherently differ to address male circumcision due to its own
15 unique context.

17 ⁴⁵ *Laws Against FGM - State by State*. Equality Now, <https://equalitynow.org/us-laws-against-fgm-state-by-state-map/>, (last visited July 21, 2026).

18 ⁴⁶ ORS 431A.600.

19 ⁴⁷ Such responses are well developed in regard to FGM/C. *See, e.g., Resources*, The End
20 FGM US Network, <https://endfgmnetwork.org/resources/> (last visited July 21, 2026); *Resources*,
21 Sahiyo, <https://sahiyo.org/resources/sahiyo-resources.html> (last visited July 21, 2026).

22 ⁴⁸ The Power of Education to End Female Genital Mutilation, UNICEF (2022),
23 <https://data.unicef.org/resources/the-power-of-education-to-end-female-genital-mutilation/> (last
24 visited July 21, 2026).

25 ⁴⁹ UNICEF, A Decade of Action to Achieve Gender Equality: The UNICEF Approach to
26 the Elimination of Female Genital Mutilation, (2020),
27 <https://www.unicef.org/media/88751/file/FGM-Factsheet-2020.pdf> (last visited July 21, 2026);
see also Use of the Multisectoral Approach to Ending Gender Based Violence and Female
Genital Mutilation in Africa, Equality Now (Mar. 23 2022),
[https://equalitynow.org/resource/reports/use-of-the-multi-sectoral-approach-to-ending-gender-
based-violence-and-female-genital-mutilation-in-africa/](https://equalitynow.org/resource/reports/use-of-the-multi-sectoral-approach-to-ending-gender-based-violence-and-female-genital-mutilation-in-africa/) (last visited July 21, 2026); UNICEF,
Gender Transformative Approaches To Ending Female Genital Mutilation, (Dec. 2021),

1 Equal-protection principles exist to extend the law’s protection, not to strip it away.
2 Nullification of ORS 163.207 and ORS 431A.600 would accomplish the opposite of what the
3 Equal Protection Clause is designed to do: it would remove criminal sanctions and community-
4 based outreach programs that currently protect a defined and vulnerable class of girls from a
5 recognized form of gender-based violence. Invalidating the challenged statutes would leave
6 more than 400 girls in Oregon who are currently at risk of FGM/C without specific legal
7 protections that the Oregon legislature enacted nearly thirty years ago for their benefit. Striking
8 down the statutes would not remedy the injuries alleged by plaintiffs; rather, it would expose a
9 vulnerable population to grave and lasting harm.

10 As such, even if the statutes were perceived as underinclusive, the proper remedial course
11 would be to preserve and, where appropriate, extend protection through the legislative process –
12 not to nullify the statutes and withdraw protection from those the legislature has already
13 protected.⁵⁰

14 CONCLUSION

15 FGM/C, which is a human rights violation shrouded in secrecy and deeply embedded in
16 communities, can and must end. Eradicating FGM/C requires strong legal protections and the
17 collaboration and meaningful participation of judges and lawyers to guarantee justiciable human
18 rights. Laws like ORS 163.207 and ORS 431A.600 are essential and foundational steps to
19 eradicating FGM/C. The Court should uphold ORS 163.207 and ORS 431A.600, which are
20 constitutionally sound, serve compelling governmental interests, and protect a vulnerable class of
21 girls from an internationally recognized human rights violation.

22 If the Court perceives any under-inclusion in the law, the constitutionally appropriate
23 course is to defer to the legislature, not to strip protections from vulnerable girls. The remedial
24

25 <https://www.unicef.org/media/86391/file/FGM-Mainstreaming-Gender-Equality-2020-v2.pdf>
26 (last visited July 21, 2026).

27 ⁵⁰ *Califano v. Westcott*, 443 US 76, 89-90 (1979); *see, e.g., People v. Liberta*, 64 NY2d
152, 218 (1984).

1 preference for extension over invalidation is well-established, and the policy choices involved in
2 any expansion of protective legislation to cover additional practices are quintessentially
3 legislative. This task requires distinct findings on the purpose, health implications, and social
4 context of male circumcision that are fundamentally different from those underlying the current
5 FGM/C prohibition.

7 DATED: July 23, 2026.

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I hereby certify that on July 23, 2026, I have made service of the foregoing **MOTION FOR LEAVE TO APPEAR AS AMICI CURIAE** on the parties listed below in the manner indicated:

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