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

DANE HADACHEK, NATHANIEL HELLEWELL & LANDON MOODY **Plaintiffs,** **v.** **THE STATE OF OREGON,** **Defendant.**	**Case No. 25CV18224** **DECLARATION OF ERIC CLOPPER IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

I, Eric Clopper, declare:

1. I am an attorney of record for Plaintiffs Dane Hadachek, Nathaniel Hellewell, and Landon Moody. I am admitted *pro hac vice* in this case associated with Lake Perriguey who is local counsel for Plaintiffs. I have personal knowledge of the matters set forth herein.

2. Attached to this declaration as **Exhibit 1** is a true and correct copy of Plaintiffs' proposed set of stipulated facts regarding the anatomy and effects of genital cutting, which Plaintiffs provided to the State on March 27, 2026.

3. Attached to this declaration as **Exhibit 2** is a true and correct copy of the State's June 16, 2026 written response to Plaintiffs' proposed stipulated facts, in which the State advised that "[t]he State's position is that there are no genuine issues of material fact" and characterized Plaintiffs' proposed stipulated facts regarding the substantially similar effects of male and female genital cutting as "immaterial and irrelevant to the issues in the case."

4. Attached as **Exhibit 3** are true and correct excerpts of the May 19, 2026 deposition of Plaintiff Dane A.M. Hadachek that are cited in Plaintiffs' Opposition.

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5. Attached as **Exhibit 4** are true and correct excerpts of the May 20, 2026 deposition of Plaintiff Nathaniel Hellewell that are cited in Plaintiffs' Opposition.

6. Attached as **Exhibit 5** are true and correct excerpts of the May 12, 2026 deposition of Plaintiff Landon R.A. Moody that are cited in Plaintiffs' Opposition.

7. Attached as **Exhibit 6** is a true and correct copy of the amicus brief that Oregon's Department of Justice signed off on (and potentially co-authored) that argues that equal protection requires that all laws containing gender-based classifications are subject to heightened scrutiny.

8. Attached as **Exhibit 7** is a true and correct copy of a fiscal analysis of H.B. 3608 (the bill that became ORS 163.207 and 431A.600) that states that "[f]emale genital mutilation is already prosecutable under various statutes."

9. Attached as **Exhibit 8** is a true and correct summary of testimony submitted in support of H.B. 3608 (the bill that became ORS 163.207 and 431A.600) stating the bill is primarily concerned with messaging over punishment. Direct download of testimony available at: https://records.sos.state.or.us/ORSOSWebDrawer/RecordHtml/4224547 (begins at 0:59:00).

10. Attached as **Exhibit 9** is a true and correct copy of testimony submitted in support of S.B. 1076 (the bill that became ORS 167.700) characterizing the practice of surreptitious photography as a threat primarily to women and girls.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury. This Declaration was executed by me on August 4, 2026, at Los Angeles, California.

DATED August 4, 2026.

Eric Clopper, Esq.
Attorney for Plaintiffs
Admitted *Pro Hac Vice*

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Exhibit 1

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

DANE HADACHEK, NATHANIEL HELLEWELL & LANDON MOODY **Plaintiffs,** **v.** **THE STATE OF OREGON,** **Defendant.**	**Case No. 25CV18224** **[PROPOSED] Stipulation of Facts Between Plaintiffs and Defendant**

[PROPOSED] STIPULATION OF FACTS BETWEEN PLAINTIFFS AND DEFENDANT

Dane Hadachek, Nathaniel Hellewell, and Landon Moody ("Plaintiffs") and the State of Oregon ("Defendant") hereby stipulate and agree to the following facts:

Male Anatomy

1. The penile glans is the bulbous end of the penis that contains a large number of nerve endings.

2. The penile prepuce, also known as the penile foreskin, is the innervated and vascularized double-layered fold of skin, mucosal, and muscular tissue at the distal end of the human penis that covers the penile glans and the urinary meatus.

3. The penile prepuce is attached to the penile glans by an elastic band of tissue known as the penile frenulum.

4. The penile prepuce is mobile and stretchable tissue that covers the glans and keeps the glans in a moist environment.

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5. The penile prepuce covers, protects, and lubricates the sensitive skin of the penile glans.

6. The penile prepuce contains a dense concentration of nerve endings.

7. At birth, the penile prepuce is fused to the head of the penis by connective tissue and typically cannot be retracted until the child is between five and ten years old.

Female Anatomy

8. The clitoral glans is the bulbous end of the clitoris that contains a large number of nerve endings.

9. The clitoral prepuce, also known as the clitoral hood, is a fold of skin and mucosal tissue that covers the clitoral glans and clitoral shaft.

10. The clitoral prepuce is attached to the clitoral glans by an elastic band of tissue known as the clitoral frenulum.

Male & Female Anatomy Compared

11. Male and female sex organs are homologous, meaning they develop from the same embryonic structures.

12. Male and female sex organs are analogous when they perform substantially similar functions.

13. The penis and the clitoris are homologous and analogous structures.

14. The penile glans and the clitoral glans are homologous structures.

15. The penile glans and the clitoral glans are analogous structures.

16. The penile prepuce and the clitoral prepuce are homologous structures.

17. The penile prepuce and the clitoral prepuce are analogous structures.

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18. The penile frenulum and the clitoral frenulum are homologous structures.

19. The penile frenulum and the clitoral frenulum are analogous structures.

20. The penile glans and the clitoral glans are both lined with mucosal tissue containing dense sensory corpuscles.

21. The penile prepuce and clitoral prepuce are both lined with mucosal tissue containing dense sensory corpuscles.

22. The penile frenulum and clitoral frenulum are both lined with mucosal tissue containing dense sensory corpuscles.

23. The penis and the clitoris—including the penile/clitoral glans; the penile/clitoral prepuce; and the penile/clitoral frenulum—both play important roles in sexual pleasure and function.

24. The penile prepuce and clitoral prepuce both secrete oils that maintain the moist texture of their respective mucosal surfaces and prevent friction during sexual activity.

25. The penile prepuce and clitoral prepuce both glide over the penile glans and clitoral glans to facilitate sexual activity and pleasure.

Male Circumcision

26. Male circumcision is an invasive medical procedure that results in permanent physical alteration of a body part and has attendant medical risks.

27. Male circumcision is a form of male genital cutting ("MGC").

28. Male circumcision is the surgical removal of the penile prepuce and penile frenulum, which amounts to roughly 15–20 square inches of tissue in an adult male.

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29. A male who does not undergo male circumcision is "uncircumcised" or "intact."

30. Male circumcision is not medically necessary for healthy males.

31. Thousands of minors—including toddlers, infants, and newborns—undergo male circumcision yearly in Oregon.

32. Thousands of minors—including toddlers, infants, and newborns—undergo male circumcision yearly in Oregon without medical necessity.

33. Male circumcision on minors is not covered by Oregon's Medicaid plan.

34. Male circumcision on minors is performed in both ritual and hospital settings.

35. Male circumcision on minors is painful.

36. Male circumcision on minors is sometimes performed without analgesic or with inadequate analgesics where the minor undergoes pain during the procedure.

37. Male circumcision on minors entails tearing the connective tissue that fuses the penile prepuce to the penile glans in males.

38. Male circumcision on minors often entails delivering a hemostatic crush injury to the penile prepuce using medical devices like the "Gomco clamp" or "Mogen clamp."

39. Male circumcision on minors causes acute post-operative pain lasting for days.

40. Male circumcision on minors removes normal, functional, and sensitive genital tissue.

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41. Male circumcision on minors is usually performed for aesthetic, cultural, or religious reasons.

42. Male circumcision on minors, even when performed in a medical setting, carries operational risks including but not limited to bleeding, infection, adhesions or skin bridges, cysts, meatitis, meatal stenosis, chordee, hypospadias, epispadias, urethrocutaneous fistula, penile necrosis, amputation of the glans, and death.

43. Upwards of 100 male minors die each year from male circumcision in the United States.

44. Male circumcision causes significant changes in the appearance of the penis.

45. Male circumcision causes significant changes in the functionality of the penis.

46. Without the penile prepuce, the penile glans gradually forms a dry, rough layer of dead skin cells in a process known as keratinization.

47. Male circumcision destroys the gliding function of the penile prepuce.

48. Male minor circumcision is performed on minors who are unable to render informed medical consent on their own behalf.

49. Male minor circumcision often involves physically restraining infants to a plastic immobilization device known as a "circumstraint."

50. Male circumcision was historically performed in the United States to prevent masturbation and otherwise control male sexuality.

51. Most males who do not undergo male circumcision as minors do not choose to undergo male circumcision as adults absent a pressing medical need.

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52. No medical organization in the United States affirmatively recommends routine minor circumcision.

53. No secular medical organization in the world affirmatively recommends routine minor circumcision.

54. The Canadian Paediatric Society states that routine neonatal circumcision is not recommended and that the medical benefits do not outweigh the risks of the procedure.

55. The Royal Dutch Medical Association (KNMG) states that non-therapeutic circumcision of male minors is a violation of the child's right to autonomy and physical integrity and that there is no convincing evidence of medical benefit sufficient to justify the procedure.

56. The Royal Australasian College of Physicians states that routine infant circumcision is not warranted in Australia or New Zealand and that the level of protection offered by circumcision does not justify the risks of the procedure.

57. The British Medical Association states that non-therapeutic circumcision of minors should only be performed where it is in the child's best interests and that parental preference alone is insufficient to justify the procedure.

58. The German Association of Pediatricians (Berufsverband der Kinder- und Jugendärzte) states that medically unnecessary circumcision of minors violates the child's right to physical integrity and that the procedure should not be performed without a medical indication.

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59. The Danish Medical Association states that non-therapeutic circumcision of boys should be deferred until the individual can provide informed consent and that the procedure raises significant ethical concerns.

60. Medical organizations and governmental or quasi-governmental bodies in multiple countries, including Finland, Norway, Sweden, and South Africa, have similarly expressed opposition to or serious concern regarding non-therapeutic circumcision of minors, citing the child's rights to bodily integrity and autonomy.

Female Genital Cutting

61. Female circumcision is an invasive medical procedure that results in permanent physical alteration of a body part and has attendant medical risks.

62. Female circumcision is a form of female genital cutting ("FGC").

63. The World Health Organization recognizes several forms of female genital cutting of differing severity.

64. Type Ia FGC ("female circumcision") is the removal of the clitoral prepuce only, which amounts to less than roughly one square inch of tissue on an adult woman.

65. Type Ib FGC ("clitoridectomy") is the removal of the clitoral glans and the clitoral prepuce.

66. Type II FGC ("excision") is the partial or total removal of the clitoral glans and the labia minora or majora.

67. Type III FGC ("infibulation") is the narrowing of the vaginal opening with the creation of a covering seal.

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68. Type IV FGC covers all other non-medical alterations of the female genitalia including scraping, cauterization, incising, piercing, and superficial pricking, also known as a "ritual/ceremonial nick."

69. The "ritual/ceremonial nick" typically causes no lasting physical injury to the female genitalia.

70. Type Ia or Type IV FGC is not medically necessary for healthy females.

71. A significantly smaller proportion of female minors undergo FGC yearly in Oregon than male minors undergo male circumcision yearly in Oregon.

72. FGC of minors is not covered by Oregon's Medicaid plan.

73. FGC of minors is performed both in ritual and hospital settings.

74. FGC of minors is painful.

75. FGC of minors causes acute post-operative pain lasting for days.

76. FGC of minors removes normal, functional, and sensitive genital tissue.

77. FGC of minors is usually performed for aesthetic, cultural, or religious reasons.

78. FGC of minors, even when performed in a medical setting, carries operational risks.

79. FGC is performed on minors who are unable to render informed medical consent on their own behalf.

80. FGC of minors often involves physically restraining infants.

81. No medical organization in the United States affirmatively recommends routine minor FGC.

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82. No secular medical organization in the world affirmatively recommends routine minor FGC.

Disease

83. Male and female minors and infants can both contract urinary tract infection ("UTI").

84. UTI can be readily treated by antibiotics in both male and female minors and infants.

85. Vaccination is a safe and effective means to avoid human papilloma virus ("HPV") in both male and female minors and infants.

86. Antiretroviral medication (pre-exposure prophylaxis or "PrEP") is a safe and effective way to avoid human immunodeficiency virus ("HIV") in males.

87. Condoms are a safe and effective way to avoid HIV and other sexually-transmitted diseases ("STDs").

88. Male and female infants and toddlers are not typically at risk of contracting HPV, HIV, or other STDs through sexual activity.

89. Penile cancer is a rare condition that affects less than 1 in 100,000 intact males over the age of 50.

90. A tight or non-retractile penile prepuce in a young child is not alone a medical problem and typically resolves with age.

91. A tight or non-retractile penile prepuce in adolescence or adulthood can be treated with manual stretching or a prepuce-preserving surgical procedure called preputioplasty.

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92. Male circumcision is linked to sexual dysfunction including reduced sexual sensitivity.

93. Many victims of male circumcision still report sexual satisfaction.

94. Male circumcision is linked to psychological trauma.

95. FGC of minors is linked to sexual dysfunction including reduced sexual sensitivity.

96. Many victims of FGC still report sexual satisfaction.

97. FGC of minors is linked to psychological trauma.

Statutes & Legislative History

98. ORS 163.207 was enacted in 1999 and remains in effect.

99. ORS 431A.600 was enacted in 1999 and remains in effect.

100. A desire to protect children from traditional religious/cultural practices partly motivated the Oregon Legislative Assembly to adopt ORS 163.207 and ORS 431A.600.

101. A desire to protect children from medically unnecessary genital modification/alteration practices in both ritual and hospital settings partly motivated the Oregon Legislative Assembly to adopt ORS 163.207 and ORS 431A.600.

102. A blanket ban on child genital modification/alteration practices regardless of sex would further the intended goals of the enacting legislature of ORS 163.207 and ORS 431A.600.

Plaintiff Hadachek

103. Plaintiff Dane Hadachek ("Hadachek") is a male resident of Oregon.

104. Hadachek was born in Bend, Oregon, on August 7, 2007.

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105. Hadachek was circumcised as a newborn in a hospital in Oregon.

106. Hadachek's circumcision was not medically indicated.

107. Hadachek's circumcision was not performed for an aesthetic, religious, or cultural reason.

108. Hadachek suffered surgical complications from his circumcision including excessive bleeding.

109. Hadachek's circumcision caused reduced sexual pleasure, dramatic reductions in the mechanical function of his penis, difficulty achieving orgasm, and drastic aesthetic changes to his penis including a circumferential scar on his penis.

110. Hadachek is resentful and suffers episodes of emotional distress as a result of his circumcision.

111. Hadachek feels humiliated and degraded from the stigma of being and having been excluded from Oregon's child genital cutting protections because of his sex.

112. Hadachek feels less worthy of bodily integrity, personal autonomy, and privacy because he was excluded from Oregon's child genital cutting protections because of his sex.

113. Hadachek's genitals would not have been cut had he been born female.

Plaintiff Hellewell

114. Plaintiff Nathaniel Hellewell ("Hellewell") is a male resident of Oregon.

115. Hellewell was born in Oregon on June 21, 2006.

116. Hellewell was circumcised as a newborn in a hospital in Oregon.

117. Hellewell's circumcision was not medically indicated.

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118. Hellewell's circumcision was not performed for an aesthetic, religious, or cultural reason.

119. Hellewell's circumcision caused reduced sexual pleasure, dramatic reductions in the mechanical function of his penis, difficulty achieving orgasm, penile numbness, and drastic aesthetic changes to his penis including a circumferential scar on his penis.

120. Hellewell's circumcision caused a penile infection.

121. Hellewell's circumcision resulted in his scrotal skin being permanently pulled taught, resulting in six (6) testicular torsions.

122. Two (2) of the testicular torsions brought Hellewell within 30 minutes of losing his testicles altogether absent emergency intervention.

123. The tightness of Hellewell's penile and scrotal skin resulting from his circumcision has made it close to impossible for him to have sex because his skin will pull tight and tear.

124. Hellewell is resentful and suffers episodes of emotional distress as a result of his circumcision.

125. Hellewell feels humiliated and degraded from the stigma of being and having been excluded from Oregon's child genital cutting protections because of his sex.

126. Hellewell feels less worthy of bodily integrity, personal autonomy, and privacy because he was excluded from Oregon's child genital cutting protections because of his sex.

127. Hellewell's genitals would not have been cut had he been born female.

Plaintiff Moody

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128. Plaintiff Landon Moody ("Moody") is a male resident of Oregon.

129. Moody was born in Portland, Oregon, on July 22, 2000.

130. Moody was circumcised as a newborn in a hospital in Oregon.

131. Moody's circumcision was not medically indicated.

132. Moody's circumcision was not performed for an aesthetic, religious, or cultural reason.

133. Moody's circumcision caused reduced sexual pleasure, dramatic reductions in the mechanical function of his penis, difficulty achieving orgasm, and drastic aesthetic changes to his penis including a circumferential scar on his penis.

134. Moody is resentful and suffers episodes of emotional distress as a result of his circumcision.

135. Moody feels humiliated and degraded from the stigma of being and having been excluded from Oregon's child genital cutting protections because of his sex.

136. Moody feels less worthy of bodily integrity, personal autonomy, and privacy because he is/was excluded from Oregon's child genital cutting protections because of his sex.

137. Moody's genitals would not have been cut had he been born female.

Dated: April 13, 2026

Respectfully submitted,

LAW WORKS LLC

By: */s/ Lake Perriguey*

Lake James H. Perriguey, Esquire
(OSB 983213)
Attorney for Plaintiffs Dane Hadachek,
Nathaniel Hellewell, and Landon Moody

THE CLOPPER LAW FIRM PC

By: Eric Clopper ATTORNEY AT LAW

Eric Clopper, Esquire
(CA SBN 346031)
Attorney for Plaintiffs Dane Hadachek,
Nathaniel Hellewell, and Landon Moody
Admitted *Pro Hac Vice*

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Exhibit 2

Outlook

RE: Hadachek - Following up on Proposed Stipulated Facts

From Kate E Morrow <Kate.E.Morrow@doj.oregon.gov>
Date Tue 6/16/2026 8:51 AM
To Eric Clopper <eric@clopper.law>
Cc LAKE JAMES PERRIGUEY <lake@law-works.com>; Samer Saffarini <ssaffarini@clopper.law>; Peter Adler <peter@clopper.law>; Chase Venables <cvenables@clopper.law>; Sadie Forzley <Sadie.Forzley@doj.oregon.gov>

Hi Eric,

Thanks for following up. As I discussed with Lake on the phone the other week, the State will be moving for summary judgment soon on jurisdictional and merits grounds, and we should confer on a briefing schedule. Will Plaintiffs be filing a cross-motion? If so, we would propose a four-brief schedule instead of a six-brief schedule (State's MSJ, Plaintiffs' Cross-MSJ and Response, State's Reply & Response, Plaintiffs' Reply).

As far as stipulated facts are concerned, (1) the majority of the proposed facts are immaterial and irrelevant to the issues in the case and (2) because the case may significantly narrow or resolve at summary judgment, we will address any need for stipulated facts after summary judgment is resolved. The State's position is that there are no genuine issues of material fact and that this case can be resolved as a matter of law without the parties stipulating to any facts. If the parties disagree on whether material factual disputes exist, we can address that in summary judgment briefing, which will help us all to narrow the facts, if any, that need to be decided at trial.

As to your comments on standing, we disagree and will respond to your legal arguments in responsive summary judgment briefing.

We are available to meet and confer, although, given our position on the stipulated facts as described above, we do not think conferral on stipulated facts will be helpful at this time. Regardless, we are available at the following times (all times PT):

- Wednesday June 17 11am-12pm, 3:30-4pm
- Thursday June 18 3pm-4pm
- Tuesday June 23 10am-10:30am, 2pm-5pm

Best,
Kate

Kate Morrow (she/her)
Assistant Attorney General | Special Litigation Unit | Trial Division
Mobile: 971-701-1094

From: Eric Clopper <eric@clopper.law>
Sent: Monday, June 15, 2026 7:20 AM
To: Sadie Forzley <Sadie.Forzley@doj.oregon.gov>
Cc: Kate E Morrow <Kate.E.Morrow@doj.oregon.gov>; LAKE JAMES PERRIGUEY <lake@law-works.com>; Samer Saffarini <ssaffarini@clopper.law>; Peter Adler <peter@clopper.law>; Chase Venables <cvenables@clopper.law>
Subject: Re: Hadachek - Following up on Proposed Stipulated Facts

Dear Sadie,

I'm writing to follow up on the proposed Stipulation of Facts we transmitted on March 27, 2026, and re-attached to this email, to which the State has not yet substantively responded. With trial approaching this December, we should settle which facts can be stipulated to now so that both sides can focus discovery and trial preparation on what is genuinely in dispute.

Most of the propositions in our proposed stipulation are not the sort of thing reasonable parties contest. They state basic genital anatomy, the mechanics of the procedures at issue, and well-settled points of medical evidence—for example, that UTIs are readily treated with antibiotics, that HPV is preventable by vaccination, and that neither procedure is medically necessary for a healthy child. These are drawn from standard medical references and the positions of major medical organizations. Requiring us to prove them through competing experts at trial would not change the outcome on any of them. It would only consume the Court's time and the State's limited litigation resources to no purpose.

We recognize the State might genuinely dispute how some of the proposed facts are characterized. We ask that the State identify, with specificity, which proposed facts it is unwilling to stipulate to and the basis for each objection. We expect that exercise will leave only a small number of items actually in controversy, which the parties can then either refine into mutually acceptable language or reserve for trial.

We also understand the State may intend to renew its challenge to Plaintiffs' standing. We do not believe that course is well advised. The Court already considered and rejected the State's standing arguments as to Dane Hadachek and Landon Moody in its October 31, 2025 Order denying the Motion to Dismiss. Absent a material change in the facts or governing law, reraising those same arguments asks the Court to revisit a question it has already decided. Indeed, the plaintiffs' depositions only confirmed that they continue to experience stigma on an ongoing basis.

The Court is likely to reject the State's relitigating of the standing issue based in part on the "law of the case" doctrine. The Court has already ruled that males cut as minors after the anti-FGC law was enacted have stigmatic harm standing. The State's depositions revealed no facts to suggest that Plaintiff Hadachek, Moody, or Hellewell (a) is not male, (b) was not cut as a minor, or (c) was not cut after the anti-FGC law was enacted. Because no relevant facts have changed since the Court's October 31, 2025 Order, the Court "should adhere to [its] previous ruling" to "further[] the interests of consistency in judicial decision-making, finality of matters once litigated, and preservation of the credibility of the [C]ourt." *State v. Martin*, 321 Or. App. 633, 635–36 (2022).

Moreover, relitigating the standing issue before the trial judge would in effect constitute a Motion for Reconsideration, which may be prohibited by Multnomah County Supplemental Local Rule 5.045.

We would like to resolve the stipulation by June 26, 2026. Although I am in Denver today to announce the filing of a similar lawsuit in Colorado, *Huff, et al. v. Colorado*, I am available for the rest of the week and would be happy to set up a call later this week or next week (except June 22) to work through any objections. Please let me know your availability, and please feel free to loop in any other attorneys who are involved in the case.

Best,

Eric

Eric Clopper
The Clopper Law Firm, P.C.
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Book time to meet with me

From: LAKE JAMES PERRIGUEY <lake@law-works.com>
Sent: Friday, March 27, 2026 3:21 PM
To: Sadie Forzley <sadie.forzley@doj.oregon.gov>; Eric Clopper <eric@clopper.law>
Subject: Hadachek

Hello Sadie:

Please see the attached document that has proposed stipulated facts. Please let me know if there are any that you don't agree with and any that you want to add.

With these proposed stipulated facts please let us know if you think you still need depositions.

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OTLA Guardian of Civil Justice

Exhibit 3

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

DANE HADACHEK; NATHANIEL HELLEWELL & LANDON MOODY, Plaintiffs,	)	
v.	)	No. 25CV18224
THE STATE OF OREGON, Defendant.	)	

DEPOSITION OF DANE A. M. HADACHEK

Taken at the instance of Defendant

* * *

BE IT REMEMBERED THAT, pursuant to the Oregon Rules of Civil Procedure, the deposition of DANE A. M. HADACHEK was taken before Stephanie C. Rhinehart, an Oregon Certified Shorthand Reporter, Washington Certified Court Reporter, and Registered Professional Reporter, on Tuesday, May 5, 2026, commencing at the hour of 10:05 a.m., the proceedings being held from the Oregon Department of Justice, 100 Southwest Market Street, Portland, Oregon.

* * *

APPEARANCES

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ALSO PRESENT:

DESSA GARRETT

* * *

EXAMINATION INDEX

* * *

EXHIBIT INDEX

(Attached hereto.)

* * *

P R O C E E D I N G S

THE REPORTER: Before I administer the oath, will counsel please state their appearances.

ATTY MORROW: Kate Morrow, for the State.

ATTY FORZLEY: And Sadie Forzley, for the State. 10:05:39

ATTY PERRIGUEY: Lake Perriguey, here with Dane Hadachek, for the plaintiff.

DANE A. M. HADACHEK,

Having first been sworn by the Certified Shorthand Reporter to tell the truth, testified under oath as follows:

EXAMINATION

BY ATTY MORROW:

Q All right. So I am Kate, and this is Sadie, and we represent the State in this lawsuit. And so to give you a sense of what our plan is for today, we're going to set some ground rules at the outset, and then we're going to have some questions for you generally about yourself, and then we'll have questions about this lawsuit specifically. 10:06:22

A Okay.

Q So first, we're on the record, which means that we don't want to interrupt each other. So do we agree 10:06:32

why does that prohibition cause you to feel humiliated? 10:22:38
A Because it's not normalized for all children as a protection, and therefore it feels almost normalized for one group. And then, compared to males, it is, you know, not the same and -- yeah. 10:23:01
Q And how have you experienced that feeling in your everyday life?
A Between -- well, there's different aspects. Between, like, jokes and stuff being normalized -- between, like, friends and stuff like that, it makes it feel more humiliating. But also, when it comes down to personal relationships and stuff like that, it hinders at certain points. 10:23:25
Q You mentioned jokes between friends. Can you say more about that. 10:23:43
A Yeah. It's not nearly as normalized and -- like, generally, especially to talk about it. But just being circumcised, like, generally -- and all the above -- it's almost embarrassing to a point. And, like, when it's even talked about in a, like, a private setting, I still end up finding my way of getting jokes and, you know, stuff from friends, and it makes it feel even worse. And it makes me kind of realize how, like, there's no normalized safe point between any of it. 10:24:13
Q Can you help me understand that a little bit more. I'm 10:24:41

not sure I'm following. 10:24:45

A I don't even know how to...

Q That's okay.

Can you tell us about a specific time when you felt humiliated? 10:25:00

A Yeah. One of my old best friends -- I tried talking to him about it, trying to make casual conversation. And, like, later -- like, later and stuff while hanging out or doing anything, you know, hanging out with him, it would almost make it seem -- he would almost make it 10:25:25 seem like it was a point to say some sort of, you know, like, joke about it and stuff. And so I would sit there and kind of awkwardly laugh it off like it was -- but it kind of generally hurts.

Q You've said "it" a lot. Can you explain what you mean. 10:25:44

A There's different forms of what I meant it as -- between it being a subject matter for circumcision or just a general, like, replacement word. Yeah.

Q Okay. Can you tell us about a time that you were humiliated in public for being circumcised? 10:26:22

A Yeah. My best friend, Dalton, me and him work together. And we work on a crew on the for- -- you have, like, four to five people. And me and him will have, like, friendly banter going back and forth. Like, throwing crap at each other. Pretty normal. 10:26:50

And then he'll mention something, saying, "Well, at least I'm not circumcised," or something more harsh along the lines. And it kind of just -- it hurts my ego and hurts my feelings generally. And it's -- yeah. 10:26:54

Q And do your parents treat you any differently because you're circumcised? 10:27:13

A No.

Q When did you first feel humiliated by being circumcised?

A I would think -- I was 16. It was the first time that I tried having sex. And, like, the first few times, it didn't work whatsoever. I didn't have enough sensation to be able to even go any further. And it made me feel humiliated and hurt my ego and generally hurt me. And brought me down. 10:27:34 10:28:00

Q And have you ever been -- sorry. Scratch that.

To clarify, that is referring to a private interaction between and you another individual?

A Yes.

Q Have you ever been harassed or threatened because you were circumcised? 10:28:29

A No.

Q And has it ever affected your work?

A Like, my job?

Q Mm-hmm. 10:28:45

A Yeah. 10:28:49
Q Can you tell us more about that.
A Between both of -- my old job and my new job, never really found a way to escape the jokes or banter or anything. And it brought my mood down, and I would end 10:29:06
up leaving work. I've left work early a few times and -- or just, like, sat there and would think about it for a little bit and, like, wouldn't get nearly as much done; so --
(Reporter requests clarification.) 10:29:36
THE WITNESS: I would sit there and think about it for a little bit and kind of daydream, and it would hinder the amount of work I'm doing.
ATTY MORROW: Okay. Let's take a quick break. 10:29:53
(Break in proceedings at 10:29 a.m.)
BY ATTY MORROW:
Q All right. Are you familiar with the two statutes, the two laws that you are challenging in this lawsuit?
A Yes. 10:36:07
Q In your own words, what is your understanding of those laws?
A Can you remind me of what the laws are specifically. Because I know that I have a response.
Q Absolutely. 10:36:24

Q And what is your understanding of that law? 10:39:32
A That it is also one law specifically for one gender and not all around.
Q And what are you hoping to achieve in this lawsuit?
A For general protection all around for newborns, 10:39:49
infants, kids, and anyone under the age of 18 when it comes to circumcision.
Q And what are you asking the Court to do to achieve that goal?
A To either -- to bring more general -- more protection 10:40:14
towards all children instead of one gender. And to end or make it more educated -- some sort of remedy.
Q All right. So you have the laws in front of you. And I'm going to summarize those laws and say that one of them makes it a crime to subject someone to female 10:40:48
genital mutilation.

And can you tell me how you have been harmed by the law that makes it a crime to commit female genital mutilation.

A Because it's not protected for all -- it's only for 10:41:03
one side. And, therefore, when it comes to the male side, it not being a law -- protected or anything like that -- it's a double standard completely. And there's aspects that go into it.
Q And the other law, 431A.600, requires certain education 10:41:29

described in your day-to-day life? 10:43:21
A I don't know how to word it, to be honest.
Q Can you try?
A No.
Q Do you think that -- so you've asked the Court -- 10:44:02
sorry. Let me start again.
You've asked the Court to strike down these statutes. And can you -- are these laws -- will striking down these laws change the harms that you
feel? 10:44:22
A Yes.
Q Why?
A Because knowing that it's -- there's some sort of change that makes it equal for all -- everyone -- I
feel like that's kind of the remedy. It normalizes it 10:44:39
for me as a person, and it also -- it normalizes it more and also kind of just generally makes me feel better that I'm doing something about it.
Q And you've also asked the Court to extend the law to
not only prohibit female genital mutilation but to also 10:45:15
prohibit male circumcision. If the Court does that, how will that affect you?
A The same as what I just said.
Q Will it fix any of your injuries?
A Not directly. 10:45:43

Q And will it affect your day-to-day life? 10:45:51
A Yes.
Q Can you tell us why.
A Because it normalizes it generally. And, also, it
brings me up generally as a person and allows me to 10:46:02
kind of live with -- I did something -- even though I
went through something, I did something that's morally
and ethically positive and normalizes it and makes me
feel better as a person. And I feel like I can live
with that -- it is -- it outweighs what I've been 10:46:26
through as a person.
Q All right. Let's -- I think we're pretty close to
done. Let's take a quick break and then wrap up.
A All right.
(Break in proceedings at 10:47 a.m.) 10:46:55
ATTY MORROW: That is all the questions we
have.
Do you have anything?
ATTY PERRIGUEY: I don't have anything, no.
ATTY MORROW: Okay. Then we're done. 10:48:48
ATTY PERRIGUEY: Great. Thank you.
(Deposition adjourned at 10:48 a.m.)
(Reading and signing was requested.)
* * *

CERTIFICATE OF SHORTHAND REPORTER

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

This is to certify that I, Stephanie C. Rhinehart, a Washington Certified Court Reporter, Oregon Certified Shorthand Reporter, and Registered Professional Reporter reported the within and foregoing deposition; said deposition being taken before me on the date herein set forth; that the witness was duly sworn by me and that I was authorized to and did report said proceedings.

I further certify that the foregoing transcript is a full, true, and correct record of the proceedings to the best of my ability; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

I further certify that reading and signing was requested.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of May, 2026.

/s/Stephanie C. Rhinehart, RPR
Washington CCR No. 22013531
Expires 05/26/2027
Oregon CSR No. 22-0014
Expires 09/30/2028

Exhibit 4

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

DANE HADACHEK; NATHANIEL HELLEWELL & LANDON MOODY, Plaintiffs,	)	
v.	)	No. 25CV18224
THE STATE OF OREGON, Defendant.	)	

DEPOSITION OF NATHANIEL A. HELLEWELL

Taken at the instance of Defendant

* * *

BE IT REMEMBERED THAT, pursuant to the Oregon Rules of Civil Procedure, the deposition of NATHANIEL A. HELLEWELL was taken before Stephanie C. Rhinehart, an Oregon Certified Shorthand Reporter, Washington Certified Court Reporter, and Registered Professional Reporter, on Wednesday, May 6, 2026, commencing at the hour of 10:06 a.m., the witness responding to questions by videoconference from Richmond, Kentucky; the questions being propounded and proceedings reported by videoconference from Portland, Oregon.

* * *

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* * *

EXAMINATION INDEX

* * *

EXHIBIT INDEX

(Attached hereto.)

* * *

P R O C E E D I N G S

THE REPORTER: Before I administer the oath, will counsel please state appearances.

ATTY MORROW: Kate Morrow, for the State.

ATTY SCOTT: Carla Scott, for the State. 10:06:03

ATTY CLOPPER: Eric Clopper, for the deponent.

ATTY PERRIGUEY: Lake Perriguey, local counsel for the deponent and plaintiff.

(Witness duly sworn.) 10:06:14

ATTY MORROW: All right. Thank you, Stephanie.

NATHANIEL A. HELLEWELL,

Having first been sworn by the Certified Shorthand Reporter to tell the truth, testified under oath as follows:

EXAMINATION

BY ATTY MORROW: 10:06:35

Q Nathaniel, I am Kate, and I'm going to be conducting this deposition today. And I'm joined by Carla, who just introduced herself. Just to give you a sense of what's going to happen today, we're going to set out some ground rules and then ask some general questions 10:06:50

your ability, Nate. 10:10:14

THE WITNESS: I don't believe so.

Q BY ATTY MORROW: And just to confirm what we discussed earlier, is there anyone else in the room with you? 10:10:24

A No, there is not.

Q Okay. And can we agree to put your phone out of reach and not use it during the deposition except to talk to your attorney? Thank you.

All right. Do you have any prior names that you've used or other names that you go by? 10:10:42

A No.

Q When were you born?

A June 21st, 2006.

Q And where were you born? 10:10:52

A In Portland, Oregon.

Q How old are you?

A I'm 19 years of age.

Q Where did you grow up?

A I grew up in -- mostly in Federal Way, Washington. 10:11:03

Q And do you have any siblings?

A I do not.

Q Where did you live now?

A I live in Richmond, Kentucky. 10:11:18

has happened to me, maybe it was something that God wanted. 10:30:24

He told me, according to their church, that there was nothing requiring that, that that didn't need to happen and it was probably better that their church advised not to. 10:30:34

And, like, that's pretty cool. So it wasn't our church. It wasn't their religion. It wasn't anything. It just happened, and it was bad. But that was my opinion on it at the time and remains my opinion still. Unhappy. 10:30:46

Q And in the first part of that answer, you mentioned that it looked -- it was off. Can you tell us what "it" was?

A Just the way that my -- the circumcision, like, looked. It's not straight. It's not even. It's uncomfortable. It hurts. It itches. It doesn't look right. It's... 10:30:58

Q And how did you learn that you were circumcised? 10:31:14

A When I researched what was happening with my dick.

Q And did anything go wrong during your circumcision?

A I believe so. I've tried to get as much 10:31:28

information from my parents on this as I can. So I'll give you the most accurate understanding of what happened. 10:31:32

I believe that I was initially circumcised. They made a mistake in my circumcision, and something went rather wrong, and the hospital was trying to say that there wasn't anything wrong. So then my father specifically wanted them to revise something or change something; so the hospital tried again. I went home. I got an infection. I went back to the hospital. They did something else, and then I went home. And I'm not certain about things happening after that but... 10:31:41 10:32:02

Q And have you had to seek medical attention for any complications after those initial medical visits you just described? 10:32:24

A I have repeatedly, actually. So because of the revisions and the original mistake, all of -- the skin that would normally be a part of my scrotum is now pulled up, and so there's no room for my testicles to sit correctly. So when I move around or sit in position such as sitting in a car or a chair for an extended period of time, I get testicular torsions repeatedly, which are extremely painful and are caused by not having enough physical space to right themselves when they get moved. 10:32:47

So I've probably had about eight of them. And 10:33:07

A You said specifically as -- like, as you said it there or something to those terms. So -- 10:36:15

Q Yeah.

A -- as you described it there.

Q Yeah. You described stigma as involving a social prejudice, and I wanted to know how you learned about stigma as a -- being a social prejudice. 10:36:25

A Well, I originally would say that you would think of a stigma as -- like, there's a stigma around, like, STDs or having HIV or something. There's, like, a social, like, (vocalizes). Like, there's a stigma around if you're someone that has that. That's a... 10:36:49

Q And when did you first learn about stigma?

A I'm not certain. I don't know. Probably in school at some point. 10:37:08

Q And what is the stigma that you experience?

ATTY CLOPPER: I'm going to object as vague and ambiguous.

But you can answer the question to the best of your ability, Nate. 10:37:26

THE WITNESS: Could you repeat the question.

Q BY ATTY MORROW: Sure. I'll rephrase.

Do you experience a stigma?

A I believe I do. I believe that, just because 10:37:34

of my sex, I was protected differently than other children who were born at the same time, in the same place, in the same circumstances as me. And that that is -- that is un- -- that is unfair and unjust treatment. 10:37:39

And I've also suffered from social stigmas as a part of having -- having been circumcised and having had what happened to me happen to me. Because there have been multiple times where people have suddenly become uninterested in pursuing dating or other, like, similar social interactions when they learn that I was circumcised. And that definitely felt like a stigma. That definitely felt like something that -- I wasn't wanted, you know? So... 10:38:01 10:38:32

Q Yeah. And how does that stigma affect your daily life? 10:38:57

A Well, the stigma that got me here in the first place affects me every day. The stigma where, you know, I wasn't protected as I should have been is the reason why I'm here and the reason why I'm in pain regularly and the reason why I keep having to go to the doctor and everything else that's painful and not -- not good. 10:39:15

And the second half of the stigma -- well, I mean, currently, it doesn't really affect me too much because I'm in a relationship where I'm not pursuing anybody; so there's not really a reason for me to discuss 10:39:34

that with anyone. But... 10:39:36

Q And when you say the "second half" of -- excuse me. Go ahead and finish.

A Oh, continue. Continue.

Q When you say the "second half" of the stigma, 10:39:45
what do you mean by that?

A I meant that -- I stated two examples. I stated, at birth, I was not protected the same. And I also said that, as an adult, I am not treated the same. So I was originally referring to -- as a child, I was not 10:40:01
treated the same, and that is why I'm circumcised. And as an adult, I am not treated same. And that previously had a massive effect on me. It does not as much anymore because I'm in a committed relationship, but it did a lot previously. 10:40:26

Q And can you tell us about a specific time that you were humiliated for being circumcised?

A I wouldn't say I was humiliated as much as just very upset, but there have been multiple times where I have been having sex with somebody and I'm unable to 10:40:51
actually get anywhere or participate, really. And it's because I can't feel anything. And so that really is humiliating and upsetting when you're sitting there and you're just -- can't do anything.

Q And have you ever been publicly humiliated for 10:41:16

being circumcised? 10:41:19

A Not necessarily publicly, no.

ATTY MORROW: All right. Let's take a break for a few minutes. Is that okay?

ATTY CLOPPER: Sure. 10:41:35

(Break in proceedings at 10:41 a.m.)

BY ATTY MORROW:

Q All right. Nate, I'm going to go back to a few things that we talked about earlier.

You mentioned that you've experienced testicular torsion. Has a doctor ever told you that that was caused by your circumcision? 10:50:51

A The urologist in the emergency room that I went to the first time that it happened told me that that was what he believed had caused it. 10:51:07

Q And where was that emergency room?

A University of Kentucky Hospital, Downtown Lexington, Kentucky.

Q And so that would have been in the last couple of years? 10:51:24

A Yes.

Q And do you happen to have a copy of your birth certificate with you?

A Like, that I could get right now?

Q Yes. 10:51:31

Q And earlier we talked about female genital mutilation. Why does a law prohibiting female genital mutilation make you feel humiliated? 10:58:01

A Because it only protects females and it doesn't protect males. There's a federal law that prevents female genital mutilation already; so removing this law wouldn't -- wouldn't cause any people to be harmed. But this law is -- it's unfair. It only protects people of one sex and not people of both sexes. And having equality is very important. 10:58:17 10:58:42

Q And how have you experienced that feeling or that stigma in your day-to-day life?

A Didn't I already answer this earlier? I think...

Q Just in reference to what you just said about the law being -- I think you said "unfair." 10:58:58

A Well, it affects my daily life because I am circumcised because of that. The law only -- the law only protects women from genital mutilation, not men from genital mutilation. And so I was born, my genitals were mutilated, and now I'm here. 10:59:24

And so I was not protected by a law that should have fairly protected me.

Q And why does the law that requires education and outreach to certain communities about female genital 10:59:41

Q And how have you been harmed by the law that prohibits the practice of female genital mutilation? 11:09:04

A Because it needs to apply to both genders equally. It needs to protect both genders.

Q And these are both Oregon laws. Do you have any plans to move to Oregon? 11:09:23

A Potentially, yes.

Q Can you elaborate.

A I miss the West Coast a lot. And most of my family lives in Oregon; so I have been considering moving back to Oregon. And it might -- I would say it's probably likely that I move back to Oregon in the next five years or so, but I don't have any strict plans. 11:09:38

Q And how will a change in Oregon law affect you if you don't live here? 11:10:00

A It will affect me massively because it is a step forward in protecting the people that I want to protect. Because there are people that are in the position that I was in when I was hurt, and I want them to not -- no longer be hurt. I have a lot of family in Oregon, I have a lot of friends in Oregon, and I know a lot of people in Oregon. And when their children are born, I want them to be protected, and I want them to be okay. And knowing that we're getting closer and closer to having everybody be protected is good and would make 11:10:21 11:10:36

me feel mentally better, significantly, to know that steps are being made. 11:10:42

Q And do you think that striking down, nullifying these two laws that protect female children is going to fix the harm that you specifically have experienced? 11:10:55

A I do because I think that that will signify that the Court believes it was unequally protecting. And I don't think anybody in a court is going to stand up and advocate for female circumcision to become allowed. And so it only is a logical conclusion that, if we're protecting one, we should protect the other, in my opinion. 11:11:16

Q And can you just elaborate on how that addresses the harm that you have personally experienced.

A Well, the harm that I -- sorry. Could you restate that question just one time. 11:11:38

Q Yeah. Why is striking down these laws going to address the harm that you have described today as being your circumcision, the physical effects of that -- and you've talked about, like, rejections in your dating life. How is the change in law that you're asking for going to fix those problems? 11:12:00

A Because the law unequally protecting me versus other people was what caused the -- was what caused me to get circumcised in the first place. And so by striking 11:12:22

So that would be an even bigger step, and that would be great. 11:14:14

Q And just to make sure I understand what you're saying, you will still be circumcised regardless of what the Court does in this case. So can you help me understand how a change in the law solves that for you? 11:14:24

A It doesn't solve my personal circumcision. It solves some of the mental trauma that surrounds my circumcision, but it doesn't fix mine specifically. It fixes people in the future. Because we can try and generate new medical practices all day, but it's better to just leave people alone in the first place, you know. 11:14:45

Q And would any change in the female genital mutilation laws that you're challenging impact your day-to-day life at work? 11:15:08

A At work? I don't believe so, no.

Q What about at home?

A At home, not necessarily. I don't think it would.

Q And in any future education? 11:15:21

A I don't think so.

Q All right. Let's go ahead and take another ten-minute break.

A All right.

(Break in proceedings at 11:15 a.m.) 11:15:47

CERTIFICATE OF SHORTHAND REPORTER

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

This is to certify that I, Stephanie C. Rhinehart, a Washington Certified Court Reporter, Oregon Certified Shorthand Reporter, and Registered Professional Reporter reported the within and foregoing deposition; said deposition being taken before me on the date herein set forth; that the witness was duly sworn by me and that I was authorized to and did report said proceedings.

I further certify that the foregoing transcript is a full, true, and correct record of the proceedings to the best of my ability; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

I further certify that reading and signing was requested.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of May, 2026.

/s/Stephanie C. Rhinehart, RPR
Washington CCR No. 22013531
Expires 05/26/2027
Oregon CSR No. 22-0014
Expires 09/30/2028

Exhibit 5

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

DANE HADACHEK; NATHANIEL HELLEWELL & LANDON MOODY, Plaintiffs,	)	
v.	)	No. 25CV18224
THE STATE OF OREGON, Defendant.	)	

DEPOSITION OF LANDON R. A. MOODY

Taken at the instance of Defendant

* * *

BE IT REMEMBERED THAT, pursuant to the Oregon Rules of Civil Procedure, the deposition of LANDON R. A. MOODY was taken before Stephanie C. Rhinehart, an Oregon Certified Shorthand Reporter, Washington Certified Court Reporter, and Registered Professional Reporter, on Tuesday, April 28, 2026, commencing at the hour of 10:02 a.m., the proceedings being held from the Oregon Department of Justice, 100 Southwest Market Street, Portland, Oregon.

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EXAMINATION INDEX

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EXHIBIT INDEX

(Attached hereto.)

* * *

P R O C E E D I N G S

THE REPORTER: Before I administer the oath, will counsel please state their appearances.

ATTY FORZLEY: Sadie Forzley, S-a-d-i-e F-o-r-z-l-e-y, attorney for Defendant. 00:02:10

ATTY MORROW: And Kate Morrow, K-a-t-e M-o-r-r-o-w, also attorney for Defendant.

ATTY PERRIGUEY: Lake Perriguey, L-a-k-e P-e-r-r-i-g-u-e-y, attorney for Plaintiff, Landon Moody. 00:02:35

LANDON R. A. MOODY,

Having first been sworn by the Certified Shorthand Reporter to tell the truth, testified under oath as follows:

EXAMINATION

BY ATTY FORZLEY:

Q Okay. Let's get started. So we already met, but we'll do it again for the record. I'm Sadie, and this is Kate, my co-counsel, and we represent the State 00:02:56 in this lawsuit that you and two other plaintiffs have brought against the State.

And we're going to start out with just some general kind of rules or guidelines for how the depo will go. And then I'm going to get into some topics that have 00:03:10

A I understand that Oregon Health Authority shall implement education, prevention, and outreach in the communities that traditionally practice female circumcision, excision, or infibulation. 00:39:42

Q Okay. So what are you hoping -- and you can go ahead and put the exhibit away or set it aside. What are you hoping to achieve with your lawsuit? 00:40:08

A Hoping to achieve equal protection for both genders.

Q Okay. And what is your understanding of the relief that you're seeking from the Court? 00:40:27

A My understanding is that we are asking Oregon to extend the law or the two statutes to cover, also, men, males. And for men and women to be treated equally -- or nullify the law, although that would not be ideal. 00:40:55

Q Okay. I'm just going to...

Okay. I'm going to move on, ask you a few more questions.

Have you been harmed by the law requiring education and outreach to prevent female genital mutilation? 00:41:39

A You're asking if 431A.600 has harmed me?

Q Mm-hmm --

A No. 00:42:00

Q -- yes. No? 00:42:00
A No.
Q Okay. How have you been harmed by the law prohibiting the practice of female genital mutilation of minors? 00:42:13
A I have not.
Q Do you think invalidating the female genital mutilation statutes are going to alleviate the harms that you've alleged in this lawsuit? The harms to you, personally? 00:42:50
A Repeat the question.
Q Do you think invalidating the statute -- these two statutes will alleviate your personal harms?
A No.
Q Okay. And if the Court were to extend these laws to prevent and prohibit male circumcision, how will that decision -- how would that decision affect you? 00:43:32
A Well, I would be treated equally and protected by the State just as they protect females.
Q How will it impact you personally in terms of your own -- you know, you've alleged that you're harmed by being circumcised. So how is that going to impact -- or fix things for you? 00:44:06
A By extending the law to cover, also, male circumcision, I would no longer be discriminated against 00:44:36

by the State of Oregon. 00:44:40

Q Okay. And how will -- would that decision in your favor affect your day-to-day life?

A I don't know.

Q Okay. I'd like to ask you a few more questions about another topic. 00:45:36

So what does "stigma" mean to you as it's alleged in this case?

A Stigma means to me that one person or group or community is represented differently in a negative context. 00:46:15

Q Okay. If we could look at -- actually, no. I'm going to ask you a couple more questions about that. I got a little ahead of myself.

A Mm-hmm. 00:46:43

Q So what is the stigma to you, personally, as it relates to male circumcision?

A That I'm treated differently compared to females.

Q Okay. Any other -- anything else on stigma? 00:47:21

A I would say that, because I'm not protected by the State of Oregon currently, that I'm treated differently compared to females.

Q Can you give me an example of a -- has there ever been a specific time that you felt stigmatized for 00:48:23

short break. Can we go off the record now. 00:51:33

(Break in proceedings at 10:49 a.m.)

ATTY FORZLEY: Okay. So I don't have any more questions for you.

So are you going to ask him any questions, Lake? 00:54:27

ATTY PERRIGUEY: I have just a clarifying inquiry.

ATTY FORZLEY: Okay.

00:54:32

EXAMINATION

BY ATTY PERRIGUEY:

Q So, Mr. Moody, you were asked how or whether these two statutes at issue -- whether they harmed you or how they harmed you, and you said they hadn't. 00:54:46

So I wanted to just ask you, if not being treated equally by the law were to be considered a stigmatic harm and not, like, a physical harm, you know, associated -- maybe the first -- I don't know.

So if not being treated equally by Oregon law is considered a stigmatic harm, would your answer to that question about whether you've been harmed by those statutes change? 00:55:04

A Yes.

Q Can you explain that. 00:55:21

A Yeah. I wasn't -- needed to further clarify, when I was asked that question, that I was harmed by stigmatic harm because the law did not extend to male circumcision. So they did, in fact, harm me in the stigmatic way -- and that I was not protected. 00:55:24 00:55:50

Q Okay. I just wanted to clarify that. Thank you.

ATTY FORZLEY: I have a couple follow-up questions. 00:56:05

FURTHER EXAMINATION

BY ATTY FORZLEY:

Q So, before, you told me that the law that bans female genital mutilation of minors, ORS 163.207 -- that that law did not harm you. And then your attorney asked you a question, and then you changed your answer, and you said now it does harm you. 00:56:20

So before when you told me the statute didn't harm you, what did you mean by that?

A I meant that the statutes only covered females. And because I'm not a female, it didn't directly apply to me. But I should have clarified that, indirectly, it did not protect me because it was discriminating against males -- which I am. So indirectly it did harm me because I was not protected. 00:56:40 00:57:07

Q But it did not -- the statute does not directly harm you? 00:57:09

A It does directly harm me because it does not protect males.

Q How does it directly harm you? 00:57:22

A It discriminates against me because it does not cover male circumcision, therefore stigmatically harming me.

Q Have you ever been denied access to a business, an employment position, education, or something similar based on your status as being someone who's been circumcised? 00:57:52

A No.

Q Have you ever been harassed or threatened because you were circumcised? 00:58:05

A No.

Q Okay. Has anything happened to you that's negative -- aside from the harm that you already told me about, the stigma, has anything else happened to you that's negative because you're circumcised? 00:58:16

A I was circumcised.

Q Okay. I think we're done.

All right. You're done.

(Deposition adjourned at 10:56 a.m.)

* * *

CERTIFICATE

I, Stephanie C. Rhinehart, a Registered Professional Reporter, Oregon Certified Shorthand Reporter, and Washington Certified Court Reporter, hereby certify that said witness appeared before me at the time and place set forth in the caption hereof; that at said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed through computer-aided transcription, under my direction; and that the foregoing pages constitute a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that review of the transcript was requested.

Witness my hand at Portland, Oregon, this 12th day of May, 2026.

Stephanie C. Rhinehart
Washington CCR No. 22013531
Expires 05/26/2027
Oregon CSR No. 22-0014
Expires 09/30/2028

Exhibit 6

No. 23-477

In the Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

v.

JONATHAN SKRMETTI, ATTORNEY GENERAL AND REPORTER FOR TENNESSEE, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE STATES OF CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, HAWAIʻI, ILLINOIS, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, NEVADA, NEW JERSEY, NEW YORK, OREGON, PENNSYLVANIA, RHODE ISLAND, VERMONT, WASHINGTON, AND THE DISTRICT OF COLUMBIA AS AMICI CURIAE IN SUPPORT OF PETITIONER

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September 3, 2024

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INTERESTS OF AMICI

Amici States have a powerful interest in the issues presented by this case. Amici frequently defend their laws and policies against constitutional challenges, including under the Equal Protection Clause, and have a general interest in the proper application of constitutional standards. Amici also have a responsibility to protect and defend the constitutional rights of all of their residents—including those who are transgender. People who are transgender have a right to live openly and honestly, with dignity, free from discrimination. Further, amici regulate the practice of medicine in their jurisdictions, including by licensing doctors and other medical professionals; recognizing standards of care for a wide variety of medical procedures and treatments; and enforcing those standards and other related regulations. That experience informs amici's analysis of the question presented in this case.

SUMMARY OF ARGUMENT

Based on our experience regulating the practice of medicine, amici States agree with the conclusion of the majority of courts to consider the constitutionality of laws like SB1: "outright bans on gender-affirming medical care for adolescents with gender dysphoria" go much further than necessary to advance any legitimate state medical interests. Pet. App. 198a; *see, e.g.*, *id.* at 199a-205a; *id.* at 122a-123a & n.2 (collecting cases).[1]

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[1] This brief addresses SB1's ban on gender-affirming puberty blockers and hormone therapy. It does not address SB1's ban on gender-affirming surgery, as the district court held that the plaintiffs lack standing to challenge that provision and the plaintiffs did not appeal that holding. *See* Pet. App. 63a n.3; *id.* at 139a-142a.

Gender-affirming care can provide highly beneficial—indeed, "potentially life-saving"—treatment to transgender adolescents with gender dysphoria. *Brandt v. Rutledge*, 551 F. Supp. 3d 882, 890 (E.D. Ark. 2021). And clinical standards of care account for any limited risks of that treatment by requiring doctors to make individualized findings that gender-affirming care is medically necessary. By categorically denying transgender adolescents with gender dysphoria access to a beneficial form of treatment that is endorsed by every major medical organization, SB1 departs from traditional norms of state medical regulation. And it violates the Constitution's guarantee of the equal protection of the laws.

ARGUMENT

I. THE CHALLENGED BAN ON CARE DEPARTS FROM TRADITIONAL NORMS OF STATE HEALTHCARE REGULATION

A. SB1 Categorically Bans a Form of Medical Care with Well-Documented Health Benefits and Manageable Risks

Amici States have carefully examined medical and scientific evidence about the provision of gender-affirming care to transgender adolescents with gender dysphoria, including the extensive record-based findings made by the district court in this case. *See* Pet. App. 176a-205a. Denying gender-affirming care can have tragic consequences for the physical and mental well-being of transgender adolescents. *See, e.g.*, *id.* at 195a-196a. Providing such care when medically necessary, by contrast, can lead to enormous improvements in health and quality of life. *See, e.g. id.*, *Poe v. Labrador*, No. 23-cv-269, 2023 WL 8935065, at *14 (D. Idaho Dec. 26, 2023) ("[E]vidence shows not only that gender-affirming medical care delivered in accordance

with [clinical] guidelines is helpful and necessary for some adolescents, but also that withholding such care is harmful."), *appeal filed*, No. 24-142 (9th Cir. 2024), *stayed in part*, 144 S. Ct. 921 (2024).

Transgender individuals are people "whose gender identity is different from their sex at birth." Pet. App. 131a n.3. Many transgender individuals suffer from gender dysphoria, a medical "condition where clinically significant distress results from the lack of congruence between a person's gender identity and the sex they were designated at birth." *Id.* at 251a; *see also id.* at 134a.[2] Left untreated, gender dysphoria can substantially affect quality of life, including by causing anxiety, depression, and substance-abuse problems. *See* Pet. App. 194a-197a, 251a-252a. It can also be fatal: suicide attempts are approximately *nine times* more common among transgender people than in the overall U.S. population (41% versus 4.6%). *See* Haas et al., *Suicide Attempts Among Transgender and Gender Non-Conforming Adults* 2 (2014), https://tinyurl.com/4baj2v3s; *see also, e.g.*, Pet. App. 196a, 207a-208a.

The risks of leaving gender dysphoria untreated are especially pronounced among transgender adolescents. The onset of puberty is "often a source of significant distress" for transgender adolescents.[3] When they develop physical features that are incongruent

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[2] "[G]ender dysphoria is a serious medical condition" that many, but not all, people who are transgender experience. Pet. App. 251a. "Being transgender," however, "is not itself a mental disorder or medical condition to be cured." *Id.*

[3] Lopez et al., *Statement on Gender-Affirmative Approach to Care from the Pediatric Endocrine Society Special Interest Group on Transgender Health*, 29 Current Op. Pediatrics 475, 477 (2017), https://pubmed.ncbi.nlm.nih.gov/28562420.

with their gender identity, a common result is "heightened gender dysphoria," *Brandt v. Rutledge*, 47 F.4th 661, 671 (8th Cir. 2022), which can lead to "severe anxiety, depression, self-harm, and suicidal ideation," Pet. App. 207a-208a; *see also Brandt*, 551 F. Supp. 3d at 892 (describing "lifelong physical and emotional pain" from irreversible changes brought on by puberty). In one recent study, 56% of transgender individuals aged 14 to 18 reported a previous suicide attempt and 86% reported having suicidal thoughts.[4]

After careful consideration of expert testimony, courts have repeatedly found that puberty blockers and hormone treatments can safely and effectively address gender dysphoria among transgender adolescents. *See, e.g.*, Pet. App. 194a-196a; *K.C. v. Individual Members of Med. Licensing Bd. of Indiana*, 677 F. Supp. 3d 802, 820 (S.D. Ind. 2023), *appeal filed*, No. 23-2366 (7th Cir. July 12, 2023), *stayed*, No. 23-2366, 2024 WL 811523, at *1 (7th Cir. Feb. 27, 2024); *Doe v. Ladapo*, 676 F. Supp. 3d 1205, 1222 (N.D. Fla. 2023), *appeal filed*, No. 23-12159 (11th Cir. June 27, 2023); *Eknes-Tucker v. Marshall*, 603 F. Supp. 3d 1131, 1150 (M.D. Ala. 2022), *rev'd* 80 F.4th 1205 (11th Cir. 2023). Many studies have reached similar conclusions. *See, e.g.*, Green et al., *Association of Gender-Affirming Hormone Therapy with Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*, 70 J. Adolescent Health 643, 647-648 (2022), https://tinyurl.com/5xa63k3j (use of gender-affirming hormone therapy for teens under the age of eighteen associated with lower odds of depression and suicide attempts

[4] Austin et al., *Suicidality Among Transgender Youth*, 37 J. of Interpersonal Violence 2696, 2703, 2706 (2022), https://tinyurl.com/373zmarf.

relative to adolescents who wanted—but did not receive—the therapy).[5]

"[L]ike any medical treatment," gender-affirming care may also carry risks. *Koe v. Noggle*, 688 F. Supp. 3d 1321, 1351 (N.D. Ga. 2023), *preliminary injunction stayed*, No. 1:23-CV-2904-SEG (N.D. Ga. Sept. 5, 2023). But the record in this case shows that any risks are limited. The district court systematically evaluated and debunked each of the claims of medical risk advanced in defense of SB1. *See, e.g.*, Pet. App. 185a, 187a (fertility); *id.* at 188a-189a (bone density); *id.* at 190a-191a (cardiovascular disease); *id.* at 192a (cancer). Other courts have deemed similar allegations of medical risks flawed or overstated. *See, e.g.*, *Brandt*, 47 F.4th at 671; *Ladapo*, 676 F. Supp. 3d at 1222; *Eknes-Tucker*, 603 F. Supp. 3d at 1145; *Koe*, 688 F.

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[5] *See also* Turban et al., *Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation*, 145 Pediatrics 1, 4-5 (2020), https://tinyurl.com/2npb584p (survey of almost 3,500 transgender adults showing that individuals who received pubertal suppression during adolescence had around 15% lower odds of lifetime suicidal thoughts compared to individuals who wanted that treatment but did not receive it); de Vries et al., *Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment*, 134 Pediatrics 1, 7 (2014), https://tinyurl.com/bdxa4pkf (longitudinal study of transgender adolescents finding that gender-affirming treatment resulted in improved psychological functioning over time); Arnoldussen et al., *Self-Perception of Transgender Adolescents After Gender-Affirming Treatment*, 9 LGBT Health 238, 241-243 (2022), https://tinyurl.com/5fvv5nas (study of transgender adolescents finding significant increase in reported self-worth after receiving gender-affirming treatment); Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, 5 J. Am. Med. Ass'n Network Open 1, 6 (2022), https://tinyurl.com/4zxdaffw (gender-affirming care associated with lower odds of depression and self-harm).

Supp. 3d at 1350-1351*; Doe 1 v. Thornbury*, 679 F. Supp. 3d 576, 584 (W.D. Ky. 2023), *rev'd sub nom. L.W. by and through Williams v. Skrmetti*, 83 F.4th 460 (6th Cir. 2023); *Poe*, 2023 WL 8935065, at *14 (any risks "associated with the treatments used in gender-affirming medical care are similar to risks associated with other types of healthcare families may seek for minors").[6]

In light of the clear benefits and the limited, manageable risks, "every major medical organization to take a position on the issue . . . agrees that puberty blockers and cross-sex hormone therapy are appropriate and medically necessary treatments for adolescents when clinically indicated." Pet. App. 198a. Medical organizations that "have formally recognized" the benefits of gender-affirming care "include the American Academy of Pediatrics, American Academy of Child and Adolescent Psychiatry, American Academy of Family Physicians, American College of Obstetricians and Gynecologists, American College of Physicians, American Medical Association, American Psychiatric Association, and at least a dozen more." *Ladapo*, 676 F. Supp. 3d at 1213.

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[6] A recent report commissioned by the U.K. National Health Service evaluated the risks and benefits of gender-affirming care and concluded that such care can be appropriate and medically necessary for certain transgender adolescents. *See generally* Cass Review, *Final Report: Independent Review of Gender Identity Services for Children and Young People* (2024), https://tinyurl.com/yc3yb65v. While the report stressed the need for "thoughtful, cautious assessments prior to considering medical [gender-affirming] care," it "*[did] not* conclude that gender-affirming medical care for adolescent gender dysphoria should be banned." McNamara et al., *An Evidence-Based Critique of "The Cass Review" on Gender-Affirming Care for Adolescent Gender Dysphoria* 5 (2024), https://tinyurl.com/5bby3f9p.

B. SB1 Bans Care Entirely, Rather than Merely Regulating It

In amici's experience as regulators of the practice of medicine, "outright ban[s]" on care (Pet. App. 187a) comparable to SB1 are extremely rare. SB1 prohibits an entire population group from accessing care with substantial benefits and limited evidence of risks—regardless of individual patient circumstances, and against the unanimous recommendation of every major medical organization. Respondents identify no good reason for that sweeping departure from ordinary norms of state medical regulation.

1. As a general matter, States ensure the quality of individualized care provided by doctors through licensing and disciplinary regimes. *See generally* Field, *Health Care Regulation in America* 19-24, 37-38 (2007). The medical profession is one of the most strictly regulated in the country. *See id.* at 3, 20. Before doctors can be certified to practice medicine, they must meet rigorous educational, training, and testing requirements. *See id.* at 20-22. Once doctors begin practicing, they must satisfy continuing medical education requirements. *See* Johnson & Chaudhry, *Medical Licensing and Discipline in America* 258-265 (2012). And doctors must adhere to the standard of care at all times.[7] If doctors deviate from the standard of care or otherwise act unethically or irresponsibly, they can be subject to discipline by state medical boards or held liable under state malpractice laws.

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[7] *See, e.g.*, Wash. Rev. Code § 7.70.040(1)(a) (standard of care requires "exercis[ing] that degree of care, skill, and learning expected of a reasonably prudent health care provider at that time in the profession or class to which he or she belongs . . . acting in the same or similar circumstances"); W. Va. Code § 55-7B-3(a)(1) (similar).

See generally Field, *supra*, at 23, 37-38; Pegalis, *American Law of Medical Malpractice* § 1:1 (3d ed. 2024).

Even when forms of treatment involve heightened medical risks, States rarely enact categorical bans. For example, opioids present extraordinary and well-documented risks of addiction. *See Harrington v. Purdue Pharma L.P.*, 144 S. Ct. 2071, 2078-2079 (2024). But no State has categorically banned the use of opioids for the treatment of pain. Instead, state medical boards and other agencies have adopted policies on the prescription of opioids to reduce the potential for abuse and addiction. States typically require or advise doctors to discuss the risks and benefits of opioid medications with patients, to consider alternative treatments, to conduct a risk assessment, and to obtain informed consent before prescribing opioids.[8]

States have also adopted specialized medical regulations to ensure that minors and (where appropriate) their parents or guardians are fully apprised of the risks of certain healthcare decisions. Rather than ban care entirely, the longstanding approach of States in this area has been to enable minors and their parents to make informed medical decisions.[9] This approach

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[8] *See, e.g.*, Ariz. Dep't of Health Servs., *Arizona Opioid Prescribing Guidelines* 2 (2018), https://tinyurl.com/3k9k5k6w; Med. Bd. of Cal., *Guidelines for Prescribing Controlled Substances for Pain* 6-9 (2023), https://tinyurl.com/344tntrc; 24 Del. Admin. Code CSA 9.0; Ga. Comp. R. & Regs. 360-3.06; Mass. Gen. Laws ch. 94C, §§ 18 A, 18C; Okla. State Dep't of Health, *Oklahoma Opioid Prescribing Guidelines* 1-2 (2017), https://tinyurl.com/4x6k5rxf; Vt. Admin. Code § 12-5-53:4.0.

[9] *See, e.g.*, 24 Del. Admin. Code CSA 9.5.2 (limiting minors to seven-day supply of opioids at any time and requiring practition-

(continued…)

limits the risk of adverse outcomes while preserving access to beneficial medical care.[10]

2. Respondents do not seek to justify SB1 with "a policy argument that gender-affirming treatment is undesirable because gender-transitions are undesirable." Pet. App. 193a n.52. The "sole[]" concern invoked by respondents to defend SB1's categorical ban is purported "medical risks associated with gender-af-

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ers to discuss associated risks with parents and minor); S.D. Codified Laws § 27A-15-47 (permitting use of psychotropic medications on minors 16 or older only with oral and written consent of minor and parent and treating psychiatrist's written determination that medication is "least restrictive treatment alternative medically necessary"); Utah Admin. Code R523-8-5 (requiring informed consent, non-adversarial hearing, and other procedures prior to administering psychosurgery or electroshock treatment to certain minors); Wis. Stat. § 146.34(4) (allowing minors 12 years and older to consent to donating bone marrow to sibling following psychological evaluation and informed consent).

[10] On rare occasions, States have barred medical professionals from offering treatments that pose serious, well-documented health risks. For example, some States have barred licensed healthcare providers from practicing "conversion" therapy on minors—therapy that "'[e]very major medical and mental health organization has uniformly rejected . . . as unsafe and inefficacious." *Tingley v. Ferguson*, 47 F.4th 1055, 1078 (9th Cir. 2022), *cert. denied*, 144 S. Ct. 33 (2023) (No. 22-942). At the same time, however, those States have allowed certain non-licensed providers to offer conversion therapy, and so have not wholly prevented individuals from obtaining it. *See, e.g.*, *id.* at 1064 (exempting "[t]herapists, counselors, and social workers who 'work under the auspices of a religious denomination, church, or religious organization'") (quoting Wash. Rev. Code § 18.225.030(4)); *id.* at 1073 (similar with respect to California's restrictions on conversion therapy). By contrast, SB1 completely precludes transgender adolescents suffering from gender dysphoria from accessing gender-affirming care.

firming treatment." *Id.* (emphasis omitted). But Respondents have never explained why narrower regulatory measures would be inadequate to address that concern.

There are plainly narrower regulatory alternatives to banning gender-affirming care that would adequately account for any limited medical risks. For example, many States rely on "remedies already in place"—malpractice laws and licensing standards—to prevent doctors from providing "deficient medical care" to transgender adolescents. *Ladapo*, 676 F. Supp. 3d at 1224. Respondents identify no evidence that this standard regulatory approach, which has long worked for most other forms of medical treatment, *see supra* pp. 7-8, would be inadequate with respect to gender-affirming care. *See, e.g.*, Pet. App. 200a-201a.

States could also codify the current, widely accepted clinical guidelines for gender-affirming care for transgender adolescents. Under those guidelines, the "precise treatment for gender dysphoria depends on each person's individualized need." Pet. App. 253a. Doctors must make a comprehensive, individualized assessment to determine whether gender-affirming care is medically necessary and appropriate—that is, whether an "adolescent has demonstrated a long-lasting and intense pattern of gender nonconformity or gender dysphoria" and whether any "psychological, medical, or social problems . . . could interfere with treatment." *Id.* at 256a-257a; *see id.* at 289a-290a. Clinical guidelines also require ongoing treatment to be evaluated on an individualized basis such that it "can be changed at any time by carefully tapering a patient off of the treatment." *Id.* at 261a; *see Ladapo*,

676 F. Supp. 3d at 1212 (describing "standards [of care] . . . widely followed by well-trained clinicians").

Some States have adopted or proposed other restrictions on gender-affirming medical treatment for adolescents—restrictions that are narrower than a categorical ban. Amici highlight several examples below—not because amici believe that such limits on gender-affirming care are necessary or appropriate, but because they underscore the overbreadth of SB1 and similar bans.

West Virginia, for instance, allows puberty blockers and hormonal treatments as lawful forms of treatment for transgender adolescents—but only if the adolescent "has been diagnosed as suffering from severe gender dysphoria by no fewer than two medical or mental health providers." W. Va. Code Ann. § 30-3-20(c)(5)(A).[11] State lawmakers had originally considered a categorical ban like SB1. *See* Willingham, *WV Senate Joins GOP Effort to Limit Trans Youth Health Care*, AP News (Mar. 10, 2023), https://tinyurl.com/y6vdfxb6. But the Senate Majority Leader, a physician, persuaded his fellow lawmakers to adopt a narrower measure. *See id.* As he explained, "These kids struggle, they have incredible difficulties." *Id.* He "referenced 17 peer-reviewed studies showing a significant decrease in the rates of suicide ideation

[11] West Virginia's law also requires that the "diagnosing medical professionals express in written opinions that treatment with pubertal modulating and hormonal therapy is medically necessary to treat the minor's psychiatric symptoms and limit self-harm, or the possibility of self-harm"; that "[t]he minor, the minor's parents . . . and the minor's primary physician agree in writing with the treatment"; and that "[a]ny use of gender altering medication is . . . limited to the lowest titratable dosage necessary." W. Va. Code Ann. § 30-3-20(c)(5)(B)-(D).

and suicide attempts among youth with severe gender dysphoria who have access to medication therapy." *Id.* The Chair of the Senate Health and Human Resources Committee, "another trained physician, . . . said lawmakers would set 'a dangerous precedent' by disregarding medical research in favor of political gain." *Id.*

Nebraska provides another example of a narrower alternative to SB1. Under regulations adopted earlier this year, adolescents must receive at least "40 contact hours of therapeutic treatment" before being prescribed puberty blockers or hormone treatments. 181 Neb. Admin. Code ch. 8, §§ 003(B)(iv), 011(B)(v). A medical practitioner also must determine that "gender nonconformity or gender dysphoria is driving the patient's distress and not other mental or physical health conditions"; "that there is no reasonable expectation of natural resolution of gender nonconformity"; and that "there has been a long-lasting and intense pattern of gender nonconformity or gender dysphoria." *Id.* §§ 003(B)(i), 011(B)(ii). And the regulations prescribe a seven-day waiting period between "the time the prescribing practitioner obtains informed patient consent and the time the [puberty blockers or hormones] are prescribed, administered, or delivered to a patient." *Id.* §§ 010, 015.[12]

Leaders in other States have advocated for similar measures. For example, when he vetoed a ban on gender-affirming care for transgender adolescents, Ohio Governor Mike DeWine explained that "[m]any parents have told me that their child would be dead today if they had not received [gender-affirming] treatment."

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[12] *See* Press Release, *Gov. Pillen Approves LB 574 Regulations on Nonsurgical, Gender Altering Treatments* (Mar. 12, 2024), https://tinyurl.com/y8n3j5bn.

Ohio Governor DeWine, Statement of the Reasons for the Veto of Substitute House Bill 68, at 1 (Dec. 29, 2023), https://tinyurl.com/yxyek2fh. He acknowledged that "there are rare times in the law . . . where the State overrules the medical decisions made by the parents," but he could "think of no example where this is done not only against the decision of the parents, but also against the medical judgment of the treating physician and the treating team of medical experts." *Id.* In lieu of a ban, Governor DeWine proposed narrower restrictions to ensure that minors "receive adequate counseling" before beginning treatment. *Id.* at 2.[13]

II. SB1 VIOLATES THE EQUAL PROTECTION CLAUSE

In refusing to invalidate SB1, the court of appeals did not suggest that the law's categorical ban on gender-affirming care could survive heightened equal protection scrutiny. *See* Pet. App. 48a-50a. That was for good reason: SB1 is far broader than necessary to serve any legitimate medical interests. *Supra* pp. 7-

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[13] *See also* Ark. Governor Hutchinson, *Why I Vetoed My Party's Bill Restricting Health Care for Transgender Youth*, Wash. Post (Apr. 8, 2021), https://tinyurl.com/4v6xkrdw ("I vetoed [a ban on gender-affirming care] because it creates new standards of legislative interference with physicians and parents as they deal with some of the most complex and sensitive matters concerning our youths."); *id.* (describing the proposed ban as "overbroad and extreme"); Letter from La. Governor Edwards to La. House of Representatives Speaker Schexnayder, Veto of House Bill 648 of the 2023 Regular Session 1 (June 29, 2023), https://tinyurl.com/2yskcc4j ("I have . . . recognized that in some instances, such as to curtail the opioid crisis, legitimate limitations, safeguards, or prior authorizations on certain medicines may be necessary. . . . It is unfathomable to think that . . . I would sign into law a bill that categorically denies healthcare for children[.]").

13; *see* Pet. App. 197a-205a. The court of appeals instead reasoned that SB1 is subject to mere rational-basis review. According to the court, the ban neither classifies on the basis of sex, *see id.* at 32a-44a, nor discriminates against transgender individuals in a way that justifies heightened scrutiny, *see id.* at 44a-48a. The court of appeals erred in both respects.

A. The Challenged Law Draws an Impermissible Classification on the Basis of Sex

"'[A]ll gender-based classifications today' warrant 'heightened scrutiny.'" *United States v. Virginia*, 518 U.S. 515, 555 (1996) (*VMI*). Bans on gender-affirming care necessarily classify on the basis of sex: "[W]ithout sex-based classifications, it would be impossible . . . to define whether a puberty-blocking or hormone treatment involved transition from one's sex (prohibited) or was in accordance with one's sex (permitted)." *E.g.*, *K.C.*, 677 F. Supp. 3d at 814. "Consider an adolescent, perhaps age 16, that a physician wishes to treat with testosterone." *Ladapo*, 676 F. Supp. 3d at 1217. "Under the challenged statute, is the treatment legal or illegal? To know the answer, one must know the adolescent's sex." *Id.* "This is a line drawn on the basis of sex, plain and simple." *Id.*; *see also* Pet. App. 162a-175a.

Bans on gender-affirming care also classify on the basis of transgender status, *see infra* pp. 17-19, and "it is impossible to discriminate against a person for being . . . transgender without discriminating . . . based on sex." *Bostock v. Clayton Cnty.*, 590 U.S. 644, 660 (2020). While *Bostock* arose under Title VII, its analysis is highly relevant here. Just as the Court has repeatedly given effect to Title VII's "broad language"—including in ways that the statute's authors would not

have anticipated, *e.g.*, *id.* at 679—the Court has faithfully applied the broad text of the Equal Protection Clause, *see, e.g.*, *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127, 135-136 (1994). "Though in some initial drafts the Fourteenth Amendment was written to prohibit discrimination against 'persons because of race, color or previous condition of servitude,' the Amendment . . . [as] ratified contained more comprehensive terms: 'No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.'" *Id.* at 151 (Kennedy, J., concurring in the judgment). Consistent with those broad terms, the Court has "interpret[ed] the equal protection guarantee" to invalidate "unjustified inequality . . . that once passed unnoticed and unchallenged," even in ways the Fourteenth Amendment's drafters might not have predicted. *Sessions v. Morales-Santana*, 582 U.S. 47, 59 (2017) (internal quotation marks and alterations omitted).

In the court of appeals' view, SB1 does not classify on the basis of sex because "no minor [of either sex] may receive puberty blockers or hormones . . . in order to transition from one sex to another." Pet. App. 32a. But the same could be said of the policy at issue in *Bostock*: it barred both men and women from identifying, living, and dressing at work in ways that would enable them to transition from one sex to another. *See, e.g.*, 590 U.S. at 653-654, 662. If a policy that forbids the use of clothing for the purpose of transitioning constitutes a sex classification, the same should be true of a policy that forbids the use of certain drugs for the same purpose.

The court of appeals tried to distinguish *Bostock* on its facts, emphasizing that it involved "employers [who] fired adult employees because their behavior did

not match stereotypes of how adult men or women dress or behave." Pet. App. 41a. But heightened scrutiny applies to "all" sex classifications, *J.E.B.*, 511 U.S. at 136, not just those premised on stereotypes. For example, in *Nguyen v. INS*, 533 U.S. 53, 68 (2001), the Court applied heightened scrutiny to a sex-based classification where "the difference" in treatment did "not result from [a] stereotype."

In any event, SB1 *is* stereotype-based. A sex-based stereotype is a "generalization[]" about a person's "preferences" or "'tendencies'" based on that person's sex. *VMI*, 518 U.S. at 533, 541. Just as it is a generalization to say that a woman will tend to act in "feminine" ways and a man will tend to exhibit "macho" behavior, *see, e.g.*, *Price Waterhouse v. Hopkins*, 490 U.S. 228, 235, 251 (1989), it is a generalization to say that a person will identify with their sex assigned at birth.[14] There can be little doubt that Tennessee relied on that generalization when enacting SB1: the statute declared that the law is designed to "encourag[e] minors to appreciate their sex" assigned at birth. Tenn. Code Ann. § 68-33-101(m); *see id.* § 68-33-102(9). One of the central purposes of heightened

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[14] *See, e.g.*, *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 608 (4th Cir. 2020) ("[D]iscrimination against transgender people constitute[s] sex-based discrimination for purposes of the Equal Protection Clause because such policies punish transgender persons for gender non-conformity."), *cert. denied*, 141 S. Ct. 2878 (2021) (No. 20-1163); *Glenn v. Brumby*, 663 F.3d 1312, 1318-1319 (11th Cir. 2011) (similar); *Whitaker ex rel Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. Of Educ.*, 858 F.3d 1034, 1051 (7th Cir. 2017) (similar), *cert. dismissed*, 138 S. Ct. 1260 (2018) (No. 17-301); *see also A.C. ex rel. M.C. v. Metro. Sch. Dist. of Martinsville*, 75 F.4th 760, 767-769 (7th Cir. 2023) (reaffirming *Whitaker* after *Bostock*).

equal protection scrutiny is to "take a 'hard look' at generalizations" of that nature. *VMI*, 518 U.S. at 541.

The court of appeals repeatedly suggested that SB1's "concern about potentially irreversible medical procedures" is not sufficiently suspect to justify the application of heightened scrutiny. Pet. App. 42a; *see also id.* at 32a-33a, 34a-36a. But "this conflates . . . the state's *justification* for" the law with the separate question of whether a sex classification exists in the first place. *Brandt*, 47 F.4th at 670 (emphasis added). "One can survive—but cannot avoid—intermediate scrutiny by saying there is a good reason" for enacting a sex classification. *Ladapo*, 676 F. Supp. 3d at 1218. This Court has repeatedly reversed lower courts for making similar mistakes. *See, e.g.*, *Reed v. Town of Gilbert*, 576 U.S. 155, 165-166 (2015); *Johnson v. California*, 543 U.S. 499, 507-509 (2005).

B. SB1 Unconstitutionally Discriminates on the Basis of Transgender Status

Even if SB1's gender-affirming care ban did not qualify as a sex-based classification, it would still trigger heightened scrutiny because it discriminates on the basis of transgender status. "Although SB1 does not use the word 'transgender,' the law plainly proscribes treatment for gender dysphoria." Pet. App. 151a. And "only transgender individuals suffer from gender dysphoria." *Id.* at 151a-152a; *see supra* p. 3. The law thus "expressly and exclusively targets transgender people." *Id.* at 152a. To suggest otherwise would be "like saying that classifying on the basis of gray hair doesn't classify on the basis of age, or that classifying on the basis of wearing a yarmulke doesn't classify on the basis of being Jewish." *Poe*, 2023 WL 8935065, at *12 (citing *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263, 270 (1993)).

Transgender individuals are precisely the type of "discrete and insular minorit[y]" who experience "prejudice . . . which tends seriously to curtail the operation of [ordinary] political processes" and which "call[s] for a . . . more searching judicial inquiry." *United States v. Carolene Products Co.*, 304 U.S. 144, 153 n.4 (1938); *cf. City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440-441 (1985). "[T]ransgender individuals historically have been subjected to discrimination on the basis of their gender identity," including through "high rates of violence"; "discrimination in education, . . . housing, and healthcare access"; "high rates of employment discrimination, economic instability, and homelessness"; and "frequent[] . . . harassment" and "physical assault." *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 611-612 (4th Cir. 2020) (internal quotation marks omitted), *cert. denied*, 141 S. Ct. 2878 (2021) (No. 20-1163); *see also, e.g.*, *Ladapo*, 676 F. Supp. 3d at 1223 ("There has long been, and still is, substantial bigotry directed at transgender individuals.").

In holding otherwise, the court of appeals reasoned that transgender status is "[n]ot . . . immutable" and that transgender people are "[n]ot a politically powerless group." Pet. App. 45a-46a (italics omitted). But "gender identity . . . cannot be changed voluntarily." *Id.* at 251a. Nor must a minority be literally "powerless" to justify its recognition as a suspect or quasi-suspect class. *See Cleburne*, 473 U.S. at 440-441. The "position of women in America," for example, had "improved markedly" by the time that the Court first recognized gender-based classifications as quasi-suspect. *Frontiero v. Richardson*, 411 U.S. 677, 685 (1973) (plurality opinion). And while the status of transgender people has improved in some States in recent years, *see, e.g.*, Pet. App. 46a, there has been an "explosion of

anti-trans bills" in many other States. Trans Legislation Tracker, *2024 Anti-Trans Bill Tracker*, https://tinyurl.com/4p9t6a3n (last visited Aug. 28, 2024).[15]

The court of appeals also suggested that treating transgender people as a quasi-suspect class would "remov[e] [certain] policy choices from fifty state legislatures to one Supreme Court." Pet. App. 45a. Not so. Intermediate scrutiny under the Equal Protection Clause would not "make [transgender status] a proscribed classification." *VMI*, 518 U.S. at 533. It would merely ensure that lawmakers have "important governmental objectives" when classifying on the basis of transgender status, and that such classifications "are substantially related to the achievement of those objectives." *Id.* (internal quotation marks omitted). Intermediate scrutiny requires a "fit that is not necessarily perfect, but reasonable." *Bd. of Trustees of State Univ. of N.Y. v. Fox*, 492 U.S. 469, 480 (1989); *see also*, *e.g.*, *Nguyen*, 533 U.S. at 70.

SB1 fails to satisfy that standard. It forces all transgender adolescents in Tennessee to go through puberty against their will—regardless of what they, their parents, and their doctors have decided is medically appropriate and necessary. *Supra* pp. 10-11. As a consequence, many transgender adolescents will be denied the opportunity to live freely and openly—and they will develop physical features that are foreign to their core sense of self. *Supra* pp. 3-4. Too often, the result will be lifelong physical and emotional anguish.

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[15] Transgender people also remain "vastly underrepresented" at "all levels of our State and Federal Government." *Frontiero*, 411 U.S. at 686 n.17. Approximately 50 elected officials at the state and local levels—and none at the federal level—publicly identify as transgender. *See* Out for America, *National Data*, https://tinyurl.com/s2a72fek (last visited Aug. 28, 2024).

Supra pp. 3-4. Tennessee has not carried its burden to justify the infliction of such immense pain on a discrete population of our most vulnerable citizens.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted,

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Exhibit 7

1999 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Legislative Fiscal Office

MEASURE NUMBER: HB 3608
STATUS: B Engrossed
SUBJECT: Creates crime of Female Genital Mutilation. Makes crime a Class B felony.
GOVERNMENT UNIT AFFECTED: Judicial Department, local governments
PREPARED BY: Paul Siebert
REVIEWED BY: Larry Niswender
DATE: June 14, 1999

	1999-2001	2001-2003

EFFECT ON EXPENDITURES:
Indeterminate: see comments

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

BALLOT MEASURE 30: This bill may create or increase the service levels provided by local governments. However, Section 15 (7)(b) of Ballot Measure 30 exempts costs resulting from a law creating or changing the definition of a crime or establishing sentences for conviction of a crime.

COMMENTS: This bill creates a new Class B Felony, Female Genital Mutilation.

Female genital mutilation is already prosecutable under various statutes, however the Criminal Justice Commission reports they know of no previous prosecutions. There may be some impact to the courts and corrections agencies if a case that would not have been prosecuted under current law proceeds to trial under this new law. The amount of this impact is indeterminate.

The bill also requires the Department of Health to establish educational programs in communities where female genital mutilation would traditionally occur. The Department estimates this program could cost $30,000 to implement.

Exhibit 8

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

April 28, 1999 Hearing Room 357

8:00 a.m. Tapes 164 - 166

MEMBERS PRESENT: Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Hansen

Rep. Simmons

Rep. Sunseri

STAFF PRESENT: John Horton, Counsel

Patsy Wood, Administrative Support

MEASURE/ISSUES HEARD:

HB 2096 Work Session

HB 3458 Work Session

HB 3598 Work Session

HB 3208 Work Session

HB 3395 Work Session

HB 3608 Work Session

HB 2454 Work Session

HB 3086 Work Session

HB 3492 Work Session

HB 3591 Work Session

HB 2605 Work Session

431	**Dale Penn**	**Oregon District Attorneyís Association** Testifies in support of HB 3395 because it moves domestic violence cases forward for intervention without forcing a victim to appear in court. Discusses the types of hearsay that are allowed in domestic violence cases now, including medical and excited utterance hearsay. This bill would allow the court to look at hearsay beyond what is allowed in excited utterance. HB 3395 also allows prior statements of witnesses to come in as evidence and the jury can now rely upon this prior evidence which is important in domestic violence and gang-related issues.
TAPE 164, B		
020	Rep. Bowman	How would this bill help you with gang members when it relates to sexual misconduct and domestic violence issues?
023	Penn	The hearsay exception applies only in domestic violence, but the part of the bill talking about the use of a prior statement would apply to any situation.
036	Chair Mannix	Closes the work session on HB 3395.
<u>HB 3608 WORK SESSION</u>		
041	Counsel Horton	Discusses the ñ1 amendments to HB 3608 that creates the crime of female genital mutilation **(EXHIBIT I)**.
048	**Rep. Prozanski**	**MOTION: Moves to ADOPT HB 3608-1 amendments dated 04/27/99.**
		VOTE: 7-0
	Chair Mannix	**Hearing no objection, declares the motion CARRIED.**
051	**Rep. Prozanski**	**MOTION: Moves HB 3608 to the floor with a DO PASS AS AMENDED recommendation.**
054	Rep. Bowman	I thought there was a desire to change the Class C felony to a misdemeanor.
062	**Lynn Partin**	**Womenís Rights Coalition**

		Discusses a bill from the 1997 Session that dropped the penalty to a Class B felony. We are getting the penalty down to a Class C felony. We are less interested in the punishment than in sending a message that female genital mutilation is not acceptable in Oregon and we want to do the outreach activities as stated in Section 2 on page 1 of HB 3608.
086	Chair Mannix	A Class A misdemeanor is up to one year in jail with a fine of $5,000. A Class C felony is up to five years in prison with a $100,000 fine. Can you imagine someone carrying out this procedure who may be of sufficient financial means that we would want to impose the higher penalty of the Class C felony?
093	Partin	I imagine that there are people coming from foreign countries that could afford that penalty.
099	Chair Mannix	If the person does not have sufficient funds it wonít matter except in terms of the prison time.
101	Partin	The prison time is significant, but it is not the intention of the Womenís Rights Coalition to lock up the person supporting the girl because we donít want the girl both mutilated and starving.
114	**Rep. Bowman**	**MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment.**
		VOTE: 7-0
	Chair Mannix	**Hearing no objection, declares the motion CARRIED.**
118	**Rep. Bowman**	**MOTION: Moves to ADOPT the conceptual amendment to HB 3608 changing the Class C felony on line 10 to a Class A misdemeanor.**
		VOTE: 7-0
	Chair Mannix	**Hearing no objection, declares the motion CARRIED.**
129	**Rep. Bowman**	**MOTION: Moves HB 3608 to the floor with a DO PASS AS AMENDED recommendation.**

Exhibit 9

MEASURE: SB1076
EXHIBIT: F
SEN/JUD CRIME & CORRECTIONS
DATE: 4-28-97 PAGES: 1
SUBMITTED BY: Marcia Latta

WRC Women's Rights Coalition

P O Box 3025, Portland, Oregon 97208-3025

Senate Crime and Corrections Committee
April 28, 1997

SB 1076
Testimony by Marcia Latta

Madame Chair, Members of the Committee:

My name is Marcia Latta, and I am here on behalf of the Women's Rights Coalition to urge you to support SB 1076. WRC is a statewide women's rights organization dedicated to equality and security for all women and girls. For over twenty years WRC has sought to end social, economic and political inequities.

WRC wholeheartedly supports SB 1076, which would create a crime of invasion of personal privacy. We believe this to be a basic issue of public trust and safety. Women, and all people, should have the assurance of privacy in all public accommodations such as bathrooms, dressing rooms, and tanning booths. A violation of that trust is emotionally traumatic and potentially damaging.

Personal safety is also threatened by such an invasion of privacy. A women who has been photographed or videotaped without her knowledge may also face physical danger from potential stalkers or harassers—either the person making the recording or others who may have a reproduced copy of the recorded material.

For the safety and privacy of everyone, we urge you to support SB 1076. Thank you.