

116TH CONGRESS
2D SESSION

H. R. 6100

To amend title 18, United States Code, to clarify the criminalization of female genital mutilation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2020

Ms. JACKSON LEE (for herself and Mr. BACON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to clarify the criminalization of female genital mutilation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Strengthening the Op-
5 position to Female Genital Mutilation Act of 2020” or the
6 “STOP FGM Act of 2020”.

7 **SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.**

8 The Congress finds the following:

9 (1) Female genital mutilation is recognized
10 internationally as a human rights violation and a

1 form of child abuse, gender discrimination, and vio-
2 lence against women and girls. Female genital muti-
3 lation is a global problem whose eradication requires
4 international cooperation and enforcement at the na-
5 tional level. The United States should demonstrate
6 its commitment to the rights of women and girls by
7 leading the way in the international community in
8 banning this abhorrent practice.

9 (2) Congress has previously prohibited the com-
10 mission of female genital mutilation on minors. Fe-
11 male genital mutilation is a heinous practice that
12 often inflicts excruciating pain on its victims and
13 causes them to suffer grave physical and psycho-
14 logical harm.

15 (3) Congress has the power under article I, sec-
16 tion 8 of the Constitution to make all laws which
17 shall be necessary and proper for carrying into exe-
18 cution treaties entered into by the United States.

19 (4) Congress also has the power under the
20 Commerce Clause to prohibit female genital mutila-
21 tion. An international market for the practice exists,
22 and persons who perform female genital mutilation
23 in other countries typically earn a living from doing
24 so.

1 (5) Those who perform this conduct often rely
2 on a connection to interstate or foreign commerce,
3 such as interstate or foreign travel, the transmission
4 or receipt of communications in interstate or foreign
5 commerce, the use of instruments traded in inter-
6 state or foreign commerce, or payments of any kind
7 in furtherance of this conduct.

8 (6) Amending the statute to specify a link to
9 interstate or foreign commerce would confirm that
10 Congress has the affirmative power to prohibit this
11 conduct.

12 **SEC. 3. AMENDMENTS TO CURRENT LAW ON FEMALE GEN-**
13 **ITAL MUTILATION.**

14 Section 116 of title 18, United States Code, is
15 amended—

16 (1) by amending subsection (a) to read as fol-
17 lows:

18 “(a) Except as provided in subsection (b), whoever,
19 in any circumstance described in subsection (d), know-
20 ingly—

21 “(1) performs, attempts to perform, or con-
22 spires to perform female genital mutilation on an-
23 other person who has not attained the age of 18
24 years;

1 “(2) being the parent, guardian, or caretaker of
2 a person who has not attained the age of 18 years
3 facilitates or consents to the female genital mutila-
4 tion of such person; or

5 “(3) transports a person who has not attained
6 the age of 18 years for the purpose of the perform-
7 ance of female genital mutilation on such person,
8 shall be fined under this title, imprisoned not more than
9 10 years, or both.”;

10 (2) by amending subsection (c) to read as fol-
11 lows:

12 “(c) It shall not be a defense to a prosecution under
13 this section that female genital mutilation is required as
14 a matter of religion, custom, tradition, ritual, or standard
15 practice.”;

16 (3) by striking subsection (d); and

17 (4) by adding at the end the following:

18 “(d) For the purposes of subsection (a), the cir-
19 cumstances described in this subsection are that—

20 “(1) the defendant or victim traveled in inter-
21 state or foreign commerce, or traveled using a
22 means, channel, facility, or instrumentality of inter-
23 state or foreign commerce, in furtherance of or in
24 connection with the conduct described in subsection
25 (a);

1 “(2) the defendant used a means, channel, fa-
2 cility, or instrumentality of interstate or foreign
3 commerce in furtherance of or in connection with
4 the conduct described in subsection (a);

5 “(3) any payment of any kind was made, di-
6 rectly or indirectly, in furtherance of or in connec-
7 tion with the conduct described in subsection (a)
8 using any means, channel, facility, or instrumen-
9 tality of interstate or foreign commerce or in or af-
10 fecting interstate or foreign commerce;

11 “(4) the defendant transmitted in interstate or
12 foreign commerce any communication relating to or
13 in furtherance of the conduct described in subsection
14 (a) using any means, channel, facility, or instrumen-
15 tality of interstate or foreign commerce or in or af-
16 fecting interstate or foreign commerce by any means
17 or in manner, including by computer, mail, wire, or
18 electromagnetic transmission;

19 “(5) any instrument, item, substance, or other
20 object that has traveled in interstate or foreign com-
21 merce was used to perform the conduct described in
22 subsection (a);

23 “(6) the conduct described in subsection (a) oc-
24 curred within the special maritime and territorial ju-

1 jurisdiction of the United States, or any territory or
2 possession of the United States; or

3 “(7) the conduct described in subsection (a)
4 otherwise occurred in or affected interstate or for-
5 eign commerce.

6 “(e) For purposes of this section, the term ‘female
7 genital mutilation’ means any procedure performed for
8 non-medical reasons that involves partial or total removal
9 of, or other injury to, the external female genitalia, and
10 includes—

11 “(1) a clitoridectomy or the partial or total re-
12 moval of the clitoris or the prepuce or clitoral hood;

13 “(2) excision or the partial or total removal
14 (with or without excision of the clitoris) of the labia
15 minora or the labia majora, or both;

16 “(3) infibulation or the narrowing of the vag-
17 inal opening (with or without excision of the clit-
18 oris); or

19 “(4) other procedures that are harmful to the
20 external female genitalia, including pricking, incis-
21 ing, scraping, or cauterizing the genital area.”.

22 **SEC. 4. REPORT.**

23 Not later than one year after the date of the enact-
24 ment of this Act, and annually thereafter, the Attorney
25 General, in consultation with the Secretary of Homeland

1 Security, the Secretary of State, the Secretary of Health
2 and Human Services, and the Secretary of Education,
3 shall submit to Congress a report that includes—

4 (1) an estimate of the number of women and
5 girls in the United States at risk of or who have
6 been subjected to female genital mutilation;

7 (2) the protections available and actions taken,
8 if any, by Federal, State, and local agencies to pro-
9 tect such women and girls; and

10 (3) the actions taken by Federal agencies to
11 educate and assist communities and key stake-
12 holders about female genital mutilation.

13 **SEC. 5. SENSE OF THE CONGRESS.**

14 It is the sense of the Congress that the United States
15 District Court for the Eastern District of Michigan erred
16 in invalidating the prior version of such section 116 (See
17 *United States v. Nagarwala*, 350 F. Supp. 3d 613, 631
18 (E.D. Mich. 2018)). The commercial nature of female gen-
19 ital mutilation (hereinafter in this section referred to as
20 “FGM”) is “self-evident,” meaning that the “absence of
21 particularized findings” about the commercial nature of
22 FGM in the predecessor statute did not “call into question
23 Congress’s authority to legislate” (*Gonzales v. Raich*, 545
24 U.S. 1, 21 (2005)). Nevertheless, the Congress has elected
25 to amend the FGM statute to clarify the commercial na-

1 ture of the conduct that this statute regulates. But, by
2 doing so, Congress does not hereby ratify the district
3 court's erroneous interpretation in Nagarwala.

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