

Union Calendar No. 406

116TH CONGRESS
2D SESSION

H. R. 6100

[Report No. 116–506]

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

SEPTEMBER 16, 2020

Additional sponsor: Ms. GARCIA of Texas

SEPTEMBER 16, 2020

Reported from the Committee on the Judiciary; committed to the Committee
of the Whole House on the State of the Union and ordered to be printed

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
11 form of child abuse, gender discrimination, and vio-
12 lence against women and girls. Female genital muti-
13 lation is a global problem whose eradication requires
14 international cooperation and enforcement at the na-
15 tional level. The United States should demonstrate
16 its commitment to the rights of women and girls by
17 leading the way in the international community in
18 banning this abhorrent practice.

19 (2) Congress has previously prohibited the com-
20 mission of female genital mutilation on minors. Fe-
21 male genital mutilation is a heinous practice that
22 often inflicts excruciating pain on its victims and
23 causes them to suffer grave physical and psycho-
24 logical harm.

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

5 (4) Congress also has the power under the
6 Commerce Clause to prohibit female genital mutila-
7 tion. An international market for the practice exists,
8 and persons who perform female genital mutilation
9 in other countries typically earn a living from doing
10 so.

11 (5) Those who perform this conduct often rely
12 on a connection to interstate or foreign commerce,
13 such as interstate or foreign travel, the transmission
14 or receipt of communications in interstate or foreign
15 commerce, the use of instruments traded in inter-
16 state or foreign commerce, or payments of any kind
17 in furtherance of this conduct.

18 (6) Amending the statute to specify a link to
19 interstate or foreign commerce would confirm that
20 Congress has the affirmative power to prohibit this
21 conduct.

22 **SEC. 3. AMENDMENTS TO CURRENT LAW ON FEMALE GEN-**
23 **ITAL MUTILATION.**

24 Section 116 of title 18, United States Code, is
25 amended—

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

3 “(a) Except as provided in subsection (b), whoever,
4 in any circumstance described in subsection (d), know-
5 ingly—

6 “(1) performs, attempts to perform, or con-
7 spires to perform female genital mutilation on an-
8 other person who has not attained the age of 18
9 years;

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

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

19 (2) by amending subsection (c) to read as fol-
20 lows:

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

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

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

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

4 “(1) the defendant or victim traveled in inter-
5 state or foreign commerce, or traveled using a
6 means, channel, facility, or instrumentality of inter-
7 state or foreign commerce, in furtherance of or in
8 connection with the conduct described in subsection
9 (a);

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

14 “(3) any payment of any kind was made, di-
15 rectly or indirectly, in furtherance of or in connec-
16 tion with the conduct described in subsection (a)
17 using any means, channel, facility, or instrumen-
18 tality of interstate or foreign commerce or in or af-
19 fecting interstate or foreign commerce;

20 “(4) the defendant transmitted in interstate or
21 foreign commerce any communication relating to or
22 in furtherance of the conduct described in subsection
23 (a) using any means, channel, facility, or instrumen-
24 tality of interstate or foreign commerce or in or af-
25 fecting interstate or foreign commerce by any means

1 or in manner, including by computer, mail, wire, or
2 electromagnetic transmission;

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

7 “(6) the conduct described in subsection (a) oc-
8 curred within the special maritime and territorial ju-
9 risdiction of the United States, or any territory or
10 possession of the United States; or

11 “(7) the conduct described in subsection (a)
12 otherwise occurred in or affected interstate or for-
13 eign commerce.

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

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

21 “(2) excision or the partial or total removal
22 (with or without excision of the clitoris) of the labia
23 minora or the labia majora, or both;

1 “(3) infibulation or the narrowing of the vag-
2 inal opening (with or without excision of the clit-
3 oris); or

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

7 **SEC. 4. REPORT.**

8 Not later than one year after the date of the enact-
9 ment of this Act, and annually thereafter, the Attorney
10 General, in consultation with the Secretary of Homeland
11 Security, the Secretary of State, the Secretary of Health
12 and Human Services, and the Secretary of Education,
13 shall submit to Congress a report that includes—

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

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

20 (3) the actions taken by Federal agencies to
21 educate and assist communities and key stake-
22 holders about female genital mutilation.

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

24 It is the sense of the Congress that the United States
25 District Court for the Eastern District of Michigan erred

1 in invalidating the prior version of such section 116 (See
2 United States v. Nagarwala, 350 F. Supp. 3d 613, 631
3 (E.D. Mich. 2018)). The commercial nature of female gen-
4 ital mutilation (hereinafter in this section referred to as
5 “FGM”) is “self-evident,” meaning that the “absence of
6 particularized findings” about the commercial nature of
7 FGM in the predecessor statute did not “call into question
8 Congress’s authority to legislate” (Gonzales v. Raich, 545
9 U.S. 1, 21 (2005)). Nevertheless, the Congress has elected
10 to amend the FGM statute to clarify the commercial na-
11 ture of the conduct that this statute regulates. But, by
12 doing so, Congress does not hereby ratify the district
13 court’s erroneous interpretation in Nagarwala.

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