IN THE IOWA DISTRICT COURT FOR POLK COUNTY

PLANNED PARENTHOOD OF THE HEARTLAND, INC. and JILL MEADOWS, M.D., **Petitioners,** **v.** **KIMBERLY K. REYNOLDS ex rel. STATE OF IOWA and IOWA BOARD OF MEDICINE,** **Respondents.**	**Case No. EQCE081503** **RULING ON PETITIONERS' PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF**

STATEMENT OF THE CASE

On May 5, 2017, Governor Terry Branstad signed into law Senate File 471, which was described, in part, as an act "relating to limitations on and prerequisites for an abortion[.]" *See* Exhibit 1 (also referred to as Iowa Code § 146A.1 (2007)). Section one of Senate File 471 (hereinafter referred to as "the Act") amended section 146A.1 by striking the section and inserting the following language:

> 1. A physician performing an abortion shall obtain written certification from the pregnant woman of all of the following at least seventy-two hours prior to performing an abortion:
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> > a. That the woman has undergone an ultrasound imaging of the unborn child that displays the approximate age of the unborn child.
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> > b. That the woman was given the opportunity to see the unborn child by viewing the ultrasound image of the unborn child.
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> > c. That the woman was given the option of hearing a description of the unborn child based on the ultrasound image and hearing the heartbeat of the unborn child.
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> > d. (1) That the woman has been provided information regarding all of the following, based upon the materials developed by the department of public health pursuant to subparagraph (2):

(a) The options relative to a pregnancy, including continuing the pregnancy to term and retaining parental rights following the child's birth, continuing the pregnancy to term and placing the child for adoption, and terminating the pregnancy.

(b) The indicators, contra-indicators, and risk factors including any physical, psychological, or situational factors related to the abortion in light of the woman's medical history and medical condition.

(2) The department of public health shall make available to physicians, upon request, all of the following information:

(a) Geographically indexed materials designed to inform the woman about public and private agencies and services available to assist a woman through pregnancy, at the time of childbirth, and while the child is dependent. The materials shall include a comprehensive list of the agencies available, categorized by the type of services offered, and a description of the manner by which the agency may be contacted.

(b) Materials that encourage consideration of placement for adoption. The materials shall inform the woman of the benefits of adoption, including the requirements of confidentiality in the adoption process, the importance of adoption to individuals and society, and the state's interest in promoting adoption by preferring adoption over abortion.

(c) Materials that contain objective information describing the methods of abortion procedures commonly used, the medical risks commonly associated with each such procedure, and the possible detrimental physical and psychological effects of abortion.

2. Compliance with the prerequisites of this section shall not apply to any of the following:

a. An abortion performed to save the life of a pregnant woman.

b. An abortion performed in a medical emergency.

> c. The performance of a medical procedure by a physician that in the physician's reasonable medical judgment is designed to or intended to prevent the death or to preserve the life of the pregnant woman.
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Anticipating the passage of the Act, Planned Parenthood of the Heartland, Inc. and Jill Meadows, M.D. (collectively referred to as PPH) filed a petition for declaratory judgment and injunctive relief on May 3, 2017.[1] The petition claims that the Act violates the due process and equal protection clauses of the Iowa Constitution. PPH also filed a motion for temporary injunction. The motion for temporary injunction was heard and denied by the district court on May 4, 2017. This court found that PPH might ultimately prove its case at trial, but could not demonstrate a likelihood of success on the merits based on the undue burden test set out in *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833 (1992).

PPH sought appellate review, and a single justice of the Iowa Supreme Court entered a stay on May 5, 2017. The Iowa Supreme Court entered an *en banc* decision granting the temporary stay on May 9, 2017. The supreme court's decision directed the district court to schedule a final hearing on the application for injunctive relief within 30 days of the order or a date as agreed to by the parties and the trial court.

On May 25, 2017, the court entered a stipulated order setting out an aggressive schedule for disclosure of experts, discovery, and filing of pretrial matters. A five-day bench trial was set to begin on July 17, 2017. The parties consented to the introduction of exhibits and depositions, and the trial was completed in two days. The parties and the court also agreed to a briefing schedule in lieu of closing arguments. Both parties filed briefs in accordance with the schedule.[2]

[1] The lawsuit originally named Governor Branstad as a party. Current Governor Kimberly Reynolds was substituted as a party following Governor Branstad's resignation.

[2] The state filed a motion to dismiss on May 23, 2017. The motion raised claims of sovereign immunity and standing. Petitioners filed a resistance on June 23, 2017. The court reserved judgment on the motion to dismiss pending trial due to the expedited schedule and other demands on the docket. Having reviewed the motion and

The court would like to make a point of complimenting the attorneys on the professionalism they showed throughout the case. Although the issue of abortion carries considerable emotion on both sides, the attorneys displayed civility at each stage of the litigation. The manner in which they conducted themselves should serve as a model, not only for the courtroom, but for the way that difficult issues are debated in society as a whole.

FINDINGS OF FACT

A. Overview of PPH and abortion in Iowa.

PPH provides a "full range of reproductive health care services" at several centers in Iowa. Its services include well-woman exams, cancer screenings, STI testing and treatment, birth control, transgender health care, and abortions. Abortions are conducted by two means. Traditional abortions are referred to as surgical abortions. Recently, PPH has been able to use a combination of the drugs mifepristone and misoprostol to end a pregnancy without surgery. This method is referred to as medication abortion. (Meadows testimony; Exhibit 10).

Medication abortions can be performed for patients in the first ten weeks of pregnancy.[3] Women choose medication abortions for a variety of reasons, including that it is less invasive and can be used in the privacy of their home. A medication abortion is more likely to succeed if used earlier in the pregnancy. For example, a medication abortion is 98 percent effective if a woman is eight weeks pregnant, whereas it is 92 percent effective if a woman is ten weeks pregnant. A surgical abortion can be performed if a medication abortion fails. (Meadows testimony; Exhibit 10).

After ten weeks, a patient seeking an abortion can only choose a surgical abortion. A separate provision of Senate File 471 bans surgical abortions after twenty weeks of pregnancy.

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resistance, the court denies the sovereign immunity and standing claims for reasons stated in the resistance. The other arguments are subsumed in the arguments made at trial.

[3] The timeframe is measured from the first day of the last menstrual period. (Exhibit 10).

PPH experts testified that health risks from an abortion increase the longer a woman is pregnant, although they stressed that both forms of abortion are safe. PPH performed approximately 3,000 of the approximate 4,000 abortions performed in Iowa last year. Approximately one-third of the abortions performed by PPH were surgical, and the remainder were medication abortions. (Meadows, Grossman testimony).

PPH's experts agreed that abortions have been declining on both the state and national levels. The rate of abortion in Iowa is substantially less than the national rate. One of PPH's experts, Dr. Daniel Grossman, accepted the state's estimates of 14.6 abortions per 1,000 women of childrearing age nationally versus 7.5 abortions per 1,000 women of childrearing age in Iowa. Dr. Meadows likewise accepted the state's estimate that the rate of abortions for women of childrearing age was approximately half of the national average. Both experts attributed the decline in abortions, in part, to PPH's efforts in promoting and improving contraceptive practices. (Meadows, Grossman testimony).

At the time the Act was passed, PPH provided services at nine centers. Surgical and medication abortions were offered at centers in Des Moines and Iowa City. Medication-only abortions were offered at centers in Burlington, Cedar Falls, Council Bluffs, Bettendorf, Sioux City, and occasionally in Ames. On June 30, 2017, PPH closed the centers in Sioux City, Burlington, and Keokuk. It expects to close the center in Bettendorf by the end of the year. Dr. Jill Meadows, the medical director for PPH, testified that it is closing the four centers due to a decision by the State to reduce funding by banning PPH from participating in the Medicaid family planning waiver program. Following the closures, PPH will only provide medication abortions in Des Moines, Iowa City, Cedar Falls, Council Bluffs, and Ames. Surgical abortions will remain available in Des Moines and Iowa City. (Meadows testimony; Exhibit 10).

Dr. Meadows and other PPH witnesses acknowledged that the centers were not closed due to the passing of the Act. PPH operated 15 centers at the time a prior case between the same parties was litigated in 2012-2013, so there are other forces in effect that have reduced PPH locations across the state.[4] PPH agreed that any burdens imposed by the Act need to be considered separately from any burdens imposed by center closures for financial or business reasons.[5] (Meadows, Grossman testimony).

B. PPH's claims of burden on women seeking abortions.

PPH does not challenge the informed consent provisions of the Act. In fact, PPH already complies with most of the informed consent provisions as part of its standard practices. PPH conducts an ultrasound before each abortion and gives the woman an opportunity to view and listen to it. PPH employees provide information to women about child birth and adoption if they ask or are uncertain whether they wish to proceed to an abortion. They also refer a woman to other providers or agencies and recommend they take more time before making a decision. There is no dispute that the informed consent provisions of the Act do not impose an undue burden on women seeking an abortion. (Meadows, Reynolds testimony).

The dispute lies with the 72 hour waiting period. PPH argued that the waiting period will require patients to make two trips to a PPH center: one to get an ultrasound and certify to the implied consent provisions of the Act, and the other to proceed with the abortion. According to PPH, this will create an undue burden to women seeking abortions by extending the time before an abortion can be performed, increasing the financial costs, and causing other obstacles that

[4] *See Planned Parenthood of the Heartland, Inc. v. Iowa Bd. of Med.*, 865 N.W.2d 252, 261-62 (Iowa 2015) (hereinafter referred to as *PPH1*). PPH argued in *PPH1* that it expected to close several centers after the Iowa Board of Medicine adopted a rule to restrict medication abortions through telemedicine. The rule did not go into effect, but several centers still closed for financial reasons. (Meadows testimony).

[5] *See Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2313 (2016) (noting that the court should not consider clinic closures as an undue burden to women seeking an abortion unless the clinics were closed for reasons related to the statute being challenged).

may harm women or prevent them from getting an abortion. The state argued that the Act will not prevent women from getting abortions and any additional costs or obstacles do not arise to the constitutional level of undue burdens.

1. Two trips to PPH. PPH presented considerable evidence to support its argument that a woman seeking an abortion would have to make two trips to a PPH center rather than seeking a local provider to get an ultrasound and certify to the implied consent requirements. This is important because the time and travel costs are more extensive if the patient lives outside a town or county that has a PPH center.

There is nothing in the Act that prevents a woman from going to another provider to get an ultrasound and certify to informed consent. However, there are some practical problems. Susan Lipinski is a physician who is board-certified in the area of obstetrics and gynecology (ob/gyn). She practices with a group of physicians in Waterloo and works with a mid-wife group out of Covenant Hospital. Dr. Lipinski testified that only 7.6 percent of doctors perform an ultrasound for ob/gyn purposes in the office. She further testified that 66 counties in Iowa do not have an ob/gyn practicing in the county. Dr. Lipinski personally sees patients who are referred from their family physicians as far as 100 miles away. This evidence shows that women in rural counties do not have the opportunity to get an ob/gyn ultrasound in their home county. (Lipinski testimony).

Even if a woman seeking an abortion lives in a county with an ob/gyn, there are obstacles to using that doctor to comply with the certification requirements in the Act. Dr. Lipinski's office is usually booked two to six weeks in advance, which is standard for ob/gyn offices in Iowa. Some ob/gyn doctors do not have an ultrasound and refer the patient to a radiologist in a different office. Many doctors and clinics in Iowa are associated with the Mercy Health Care

System, which will not allow providers to participate in abortion decisions due to their association with the Catholic Church. For example, Covenant Hospital will not allow its mid-wife group to perform an ultrasound for purposes of the Act because the hospital is a member of the Mercy system. Dr. Lipinski's physician group is not associated with Mercy, but it rents office space from Mercy. That rental agreement prevents the group from performing abortions at their clinic. Other ob/gyn doctors will not perform ultrasounds for purposes of the Act due to their personal beliefs opposing abortion. (Lipiniski testimony).

Dr. Lipiniski acknowledged that some offices would be equipped to perform an ultrasound and comply with the informed consent provision of the Act. For example, her privately-owned group could conduct the certification and forward it to another provider. She is concerned that such work could attract the attention of protesters, and she alluded to the potential impact it could have with her group's relationship with Mercy. (Lipiniski testimony).

Dr. Jane Collins is a professor of community and environmental sociology at the University of Wisconsin. She specializes in the study of low-wage labor and poverty. Dr. Collins reviewed a list of medical providers who conduct ultrasounds. She picked out Sioux City and Ottumwa as examples. After she went through the list and eliminated duplicate entries and providers who specialized in other areas (such as cancer or pain treatment), she was left with only three in Ottumwa and four in Sioux City. (Collins testimony; Exhibit 15).

Dr. Collins contacted the three remaining providers from Ottumwa and found that one would not perform a pregnancy ultrasound, one would only do so for new patients if they set up a separate visit,[6] and one would do so only if referred by another physician. The cost of the ultrasound ranged from $235 for the second provider to $267 for the third provider, but only if in

[6] Some women seeking an abortion might be an existing patient of the clinic, but no evidence was introduced to estimate the number of women who might fit in that category.

the first trimester. The third provider estimated a second trimester ultrasound would cost $621. She got similar results from calls to Sioux City providers, with only one willing to do an ultrasound without a referral or as a new patient. However, that one provider would send the ultrasound results to a radiologist. (Collins testimony; Exhibit 15).

PPH put on some evidence regarding its experience with crisis pregnancy centers (CPC). CPCs promote childbirth over abortion. The PPH experts uniformly doubted the reliability of ultrasounds taken by CPCs based on their experience. They testified that CPCs do not provide unbiased information to their patients and their reviews of ultrasounds frequently exaggerate the age of the unborn child. The state did not offer evidence to suggest that CPCs were a valid option to certify informed consent. (Meadows, Grossman, Lipiniski testimony; Exhibit 73).

Based on the evidence presented, most women seeking an abortion would not be able to certify completion of the informed consent requirements from a non-PPH provider. It would be possible in some cities, but the providers would be difficult to identify, the waits would be longer, and the costs would be greater. In some instances, it could be necessary for PPH to conduct a second ultrasound prior to considering an abortion depending on the quality of the first ultrasound and time delays between the first ultrasound and the procedure. Therefore, the court finds that most women seeking an abortion will need to make two trips to a PPH center, as opposed to using a different provider for the informational visit.

2. Method of travel. PPH put on evidence to show the cost of travel to a city that has a PPH center. As part of that evidence, PPH argued that travel by bus or other public means was not feasible. The evidence supports that claim. Iowa does not have an effective public transportation system connecting towns and cities throughout the state. There may be cities that have good public transportation within the city, but not from one city to another. The only

feasible means for a woman to travel to a different city with a PPH center is by car. As the court considers the cost component for women seeking an abortion, it will assume that travel by car is the only practical means to get to a PPH center. (Collins testimony).

3. Financial burden. PPH introduced evidence to show the financial cost on women making two trips to a clinic and how they are impacted by those costs. Many women seeking abortions are low-income. The federal poverty guideline for a two-person household is $16,140 for a household of two.[7] PPH data shows that more than half of its patients are at or below 110 percent of the federal poverty guideline. Dr. Collins testified that approximately 75 percent of women seeking abortion are within 200 percent of the federal poverty guideline. (Collins, Meadows testimony).

Dr. Collins constructed a budget for a working woman with one child. She used Iowa-specific data when available, and if not, national data. She then applied expected expenses for rent, car, utilities, food, child care, telephone, medical co-pays, and personal care. In her primary example, she presumed that the household would qualify for the earned income tax credit, food assistance, Medicaid, and child care subsidies. Based on these assumptions, Dr. Collins estimated annual expenses of $17,544. If working a minimum wage job, these assumptions would project a household deficit of $3,044 annually. (Collins testimony).

The court questions some of Dr. Collins' assumptions. She estimated rent at $845 per month using the average rent in Cedar Falls as a median. There is no evidence in the record to show housing costs in other areas, but housing in rural Iowa can be considerably less expensive. Dr. Collins' assumptions do not include any income for child support even though she assumes a

[7] Dr. Collins used a two-person household as an example because data shows a majority of women seeking an abortion have one child. (Collins testimony).

minor child as part of her household.[8] Not all custodial parents receive child support, but some do and the Department of Human Services assists in the collection of child support when public assistance has paid or the custodial parent seeks help. *See* Iowa Code § 252B.3, 252B.4, 252B.5. Dr. Collins assumed that the household was not sharing expenses with another adult such as a partner or family member, but that is not true in all cases. When asked at trial, she acknowledged there was data on this point, but did not know the percentage of women sharing expenses with another adult. For these reasons, Dr. Collins' estimate of household deficit may be overstated. With that said, the record does show that most PPH patients are low income.

The travel expenses associated with a second visit are not great. Dr. Collins used Ottumwa and Sioux City as examples of the cost of travel by car. She determined the cost of gas to get a patient from Ottumwa to Des Moines (the closest PPH location) and back would be $20.16. She determined that the cost to get a patient from Sioux City to Des Moines was $48.00. However, her Sioux City example assumed that the patient would go to Des Moines for a surgical abortion, even though a Sioux City patient could go to a closer PPH center in Council Bluffs for a medication abortion. Further, even if getting a surgical abortion in Des Moines, she could drive to the closer Council Bluffs clinic for the implied consent appointment. Still, Dr. Collins' calculations are generally consistent with the testimony of Dr. Grossman, who testified that the research shows the costs of the informed consent visit to be approximate $44. (Collins testimony).

There is no question that the travel costs for a second trip are meaningful to a person who has no money after paying all of the bills. Dr. Collins testified that 25 percent of people making

[8] Dr. Collins' justified her assumption of no child support on a belief that support will be first assigned to the state in cases in which women have received public assistance. This is not entirely correct. If a woman is not currently receiving public assistance, current support received will be paid to the custodial parent. *See* 441 IAC 95.3. Special collection methods, such as tax offsets, may be applied to State balances first. *See* 441 IAC 95.7(9).

less than $15,000 per year have no bank account and 40 percent of people making less than $25,000 per year do not have credit card. A woman cannot withdraw money from the bank if she has no account, and she cannot put gas on credit if she has no card. However, women who are seeking an abortion must incur expenses to get to the location where they can receive the abortion at least one time. This includes women who have no bank account, credit card, or cash at the end of the month. The costs of the trip to have the abortion are in place regardless the application of the Act. The focus on this case must be additional costs caused by the informational visit.

PPH also argued that a woman seeking an abortion may incur additional financial impacts, such as paying for child care or taking unpaid leave from work. The argument is logical, but the record did not show the percentage of women who might be so impacted or the amount of the impact. For example, a woman may have no child care costs if she has no child, or qualifies for child care assistance, or has child care through a family member. A working woman may lose no wages if not employed or depending on work schedule. These additional potential costs should be considered as a factor, but it is difficult to determine what weight to give them as a factor based on this record.

4. Decisional certainty. The issue of "decisional certainty" was one of the focuses of the trial. PPH experts testified that a large majority of women appearing for an abortion appointment are firm as to their decision by the time of the appointment. The research supports their testimony. PPH considers this important because the Act will frustrate a large majority of

women by forcing them to wait and to return to a center a second time. (Meadows, Grossman testimony).

The state does not contest PPH's contention that most women are firm with their decision when they appear for their abortion appointment. Rather, the state focused on the women who have a low or moderate degree of certainty when appearing for their appointments. While not a majority, the state argued the number is high enough to justify instituting the 72 hour delay to give them more time to make an informed and reasoned decision.

The witnesses discussed several studies pertaining to this area. A study in Utah, which has a 72 hour mandatory delay, showed that 71 percent of women had a low level of conflict with their decision to abort (equating to high decisional certainty), but 8 percent had a high level of conflict and 21 percent fell in between the two. That study showed that 8 percent of women who appeared for the informational visit changed their mind and took the pregnancy to term. If applied to the approximate 4,000 women in Iowa who had abortions last year, the state argued that approximately 320 Iowa women might change their minds. Dr. Meadows considered that extrapolation to be high based on her experience and research, but she has read the Utah study and acknowledged it was peer-reviewed. (Meadows testimony).

A study in Los Angles found just 7.5 percent of women with medium to low certainty (although the number may be skewed because another 7.2 percent were listing as "not knowing"). However, that study was significant because it found that women who viewed the ultrasound were more likely to change their mind and continue the pregnancy. The group of women that changed their minds was also tied with the group of women with medium to low decision certainty. California does not have a mandatory delay law, so this study arguably supports PPH's argument that the law is unnecessary because women can change their minds

without mandatory delay. But, it also supports the state's argument that some women who take the opportunity to see an ultrasound will change their minds and proceed to childbirth. (Grossman testimony).

A study in Alabama, which has a 48 hours waiting period, showed that 18.8 percent of women who appeared for the informed consent appointment did not return for the abortion. That study is also notable because the distance between the woman's residence and clinic was not associated with the decision to return for the abortion. A second study in Utah showed that only 80 percent of women returned for the abortion appointment during a period Utah had a 24 hour delay. After the state amended the statute to move to a 72 hour delay, only 77 percent of women returned for the abortion appointment. PPH argued that these studies showed that the mandatory delay caused some women not to return due to the burdens imposed, but Dr. Grossman admitted that he is not aware of any study finding that the failure to return for the abortion was caused by the state-required delay. (Grossman testimony).

There is no study on decisional certainty in Iowa. PPH witnesses testified that a large majority of women who appear for an abortion procedure are firm with their decision when they arrive for an abortion and go through a patient education session. Jason Reynolds, who conducts patient education sessions, testified that his patients are "very rarely" uncertain about their decision to have an abortion after he completes an education session. PPH did not present evidence to show how many patients took more time to think about their decision or changed their minds following a patient information session. (Reynolds, Meadows testimony).

Based on the evidence presented, the court finds that a large majority of women who arrive at a PPH center for a scheduled abortion are firm with their decision to proceed with the abortion. Imposing a mandatory delay is unlikely to persuade women in this group to change

their minds about having an abortion. The studies also uniformly show that a measurable minority of women do not follow through with an abortion after an initial appointment in which they have an opportunity to see an ultrasound. The studies do not establish that the mandatory delay causes women not to follow through with an abortion due to the burdens imposed. However, there is some research to show that some women change their minds after seeing an ultrasound or being given more time to think about their decision. When tied with other studies showing that as many as twenty percent of women do not return for abortions after the informed consent appointment, it is reasonable to believe that some women in Iowa may change their minds about having an abortion after an informed consent appointment that allows the opportunity to view an ultrasound. It is not clear what that percentage of women in Iowa might change their minds and proceed with the pregnancy, but it is reasonable to believe that the percentage may be at least eight percent (as found in the first Utah study) and may be higher (as indicated in other studies showing higher percentages of women who do not return for the second appointment).

5. Non-financial impact of the delay. PPH raised several non-financial impacts of a mandatory delay law (some of which may also result in financial impact). The chief concern is with patient choice and patient safety. As Dr. Grossman testified, the crux of his concern with the mandatory delay laws is that the delays cause abortions to be performed later in the pregnancy, and later abortions creates greater risks to the patient.

PPH's argument is based, in part, on a premise that the delay between the informed consent appointment and the abortion appointment will typically be longer than 72 hours. PPH does not perform abortions every day of the week. Some centers perform abortions two to three days per week; some only perform abortions one day per week. PPH can usually schedule an

appointment within one to two weeks. The patient's schedule must likewise be considered, as she may need to arrange appointments around work or obtain child care. Dr. Meadows testified that she expected that the 72 hour delay would function as a one to two week delay between the appointments. Dr. Meadows' opinion is supported by Dr. Grossman's testimony. He referred to a study finding that a 48 hour mandatory delay law caused an actual average delay of eight days between appointments, and another resulted in a mean delay of nine days. Dr. Meadow's opinion is reasonable based on the practical realities of trying to mix the time schedules of the provider and patient. (Meadows, Grossman testimony).

PPH argued that a one to two week delay between appointments will particularly impact women who are close to one of the cutoff dates at the time of the first appointment. The first cutoff is the ten week limit to be able to have a medication abortion. If a woman schedules the first appointment too late, she may not be able to schedule the second appointment in time to receive a medication abortion (although she could still receive a surgical abortion). The second cutoff is between first and second trimester abortions. Dr. Grossman testified that abortion can be safely performed during the first and second trimester, but there is a "measurable" increase in the risk of complication and death for abortions done in the second trimester. He did not testify to the degree of increase, and he made clear throughout his testimony medication and surgical abortions are generally safe. The third cutoff is the twenty week ban set forth in section two of HF 471, after which no abortion can be performed. (Meadows, Grossman testimony).

Last year, PPH saw 600 patients within two weeks of the cutoff for medication abortions. Some of those women could fall outside the ten week period to perform a medication abortion if they had to schedule two appointments. However, this data is taken from last year prior to the passage of the Act. Women seeking an abortion only had to schedule one appointment, so they

could voluntarily schedule them in the last two weeks before reaching the ten week cutoff. If the law goes into effect, women will have the ability to account for the additional time to schedule two appointments. Dr. Meadows testified that the vast majority of current PPH abortion patients research their options prior to their appointment. Dr. Grossman testified similarly, stating that most women have researched options online and by talking to friends and family. It is reasonable to believe one aspect of their research includes the time limit for obtaining a medication abortion. The timeframes would certainly become tighter if a second visit is required, and some could miss the cutoff date for a medication abortion, but the record does not support the claim that requiring two visits will prevent women from obtaining a medication abortion. (Meadows, Grossman testimony).

PPH also saw 50 patients who were close to the cutoff for surgical abortions. Some late term abortions result from medical conditions that only develop or become known later in the pregnancy, so it may be difficult to accommodate two appointments depending on when the patient learns about the medical condition. However, the record did not show how many of these women, if any, would be barred from having an abortion due to the requirements of the Act. (Meadows testimony).

Dr. Grossman cited to studies showing that the time between appointments increases for women who live farther from an abortion provider, and those women were more likely not to return for the second appointment. However, Dr. Grossman admitted that the studies did not show that mandatory delay laws prevented women from exercising their choice to have an abortion. In fact, out of all of the studies discussed by Dr. Grossman, his research could only point to one person who was not able to get an abortion due to the mandatory delay causing her to fall outside the gestational age limit. (Grossman testimony).

PPH also argued that there are emotional benefits to allowing women to obtain abortions without delay. PPH witnesses testified that women seeking an abortion generally feel stress. Witnesses have told PPH employees how they feel relief once the procedure is complete. A mandatory delay will extend the period of stress with these women before they can follow through with the procedure. (Grossman, Meadows, Reynolds, testimony).

PPH experts also spoke to concerns about the Act impacting patient autonomy. Dr. Grossman testified to his belief that it is "cruel" to make a patient wait for an abortion after she has chosen to have one. He and others testified that the wait will lead to patient feeling physical discomfort, anger, and an implication that she cannot make her own decision. Drs. Grossman and Meadows testified that they felt the mandatory delay violated their ethical obligation as doctors to trust their patients to make personal decisions that are in their own best interests. Each PPH expert testified that there was no medical reason supporting a mandatory delay. (Grossman, Meadows, Reynolds, Lupinski testimony).

6. Victims of domestic and sexual abuse. PPH raised special concerns regarding victims of domestic and sexual abuse. A victim of domestic abuse may face additional victimization if her abuser learns she is pregnant and considering an abortion. Victims of sexual abuse want to complete the abortion procedure quickly to start the process of emotionally moving on. (Meadows, Reynolds, Grossman testimony).

PPH did not present specific evidence of the number of patients who are victims of domestic and sexual abuse. Dr. Meadows testified that her clinic sees patients who are victims of domestic abuse on a weekly basis and victims of sexual abuse on a monthly basis. This is not a large percentage of women, but the testimony was not offered as part of a statistical analysis. (Meadows testimony).

Dr. Walker testified in her affidavit to a study in Iowa showing 13.8 percent of women who were seeking an abortion reported being subject to physical or sexual abuse by an intimate partner over the past year. This testimony did not necessarily tie the pregnancy to the abuser, but rather, the fact they have been abused in the past year. Dr. Walker also testified to an estimated 4 to 8 percent of pregnant women nationally reporting physical abuse during pregnancy. It is unclear what percentage of these women choose abortion. Dr. Walker also referred to national estimates showing that the number of women who become pregnant as a result of rape may range from approximately 1.7 percent to 5 percent. The study applicable to this group shows that approximately 50 percent of the women chose an abortion. Her testimony did not show how many women in Iowa might fit this category. (Exhibit 4, Walker affidavit; Exhibit N, Walker depo.).

Scheduling a second appointment increases the chances that family members, employers, or friends will discover the woman's status. Dr. Grossman cited to a study showing that a second appointment caused approximately six percent of women to tell an additional person about their decision to have an abortion. This may have an impact on all women who are trying to conceal their pregnancy and decision to abort, but is particularly a concern with victims of domestic abuse due to the risk of re-victimization. (Meadows, Grossman testimony).

7. Medical emergency. PPH witnesses questioned the effectiveness of the medical emergency exception. Dr. Meadows testified that the exception is narrow and may not cover some serious medical concerns. For an example, an infection may not initially be life-threatening but can become so. Dr. Grossman similarly testified that some women choosing an abortion may present with health risks that are not considered life-threatening at the time.

Neither cited studies or data to show how many women may fit in this group. (Meadows, Grossman testimony).

CONCLUSIONS OF LAW

A. Legal framework under *Casey*.

In *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833 (1992), the United States Supreme Court outlined the undue burden standard as a means to evaluate abortion cases under the due process clause of the United States Constitution. The court summarized the undue burden standard as follows:

> (a) To protect the central right recognized by *Roe v. Wade* while at the same time accommodating the State's profound interest in potential life, we will employ the undue burden analysis as explained in this opinion. An undue burden exists, and therefore a provision of law is invalid, if its purpose or effect is to place a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability.
>
> (b) We reject the rigid trimester framework of *Roe v. Wade.* To promote the State's profound interest in potential life, throughout pregnancy the State may take measures to ensure that the woman's choice is informed, and measures designed to advance this interest will not be invalidated as long as their purpose is to persuade the woman to choose childbirth over abortion. These measures must not be an undue burden on the right.
>
> (c) As with any medical procedure, the State may enact regulations to further the health or safety of a woman seeking an abortion. Unnecessary health regulations that have the purpose or effect of presenting a substantial obstacle to a woman seeking an abortion impose an undue burden on the right.

Casey, 505 U.S. at 878.

Casey considered a Pennsylvania statute that had an informed consent requirement with a mandatory 24 hour delay. The Pennsylvania statute has some similarities to the Iowa statute

under review in this case. 18 Pa. Cons. Stat. § 3205 (1990).[9] The statute required a physician performing an abortion to inform the woman of the nature of the procedure, the health risks of the abortion and of childbirth, and the probable gestational age of the unborn child. *Casey*, 505 U.S. at 881. The physician or a qualified non-physician was required to inform the woman of the availability of printed materials published by the state describing the fetus and providing information about medical assistance for childbirth, information about child support from the father, and a list of agencies which provide adoption and other services as alternatives to abortion. *Id*. The woman was required to certify, in writing, that these requirements had been met. *Id*. These requirements had to be met at least 24 hours before performing an abortion. *Id*. The statute also contained a medical emergency exception if the physician reasonably believed that the furnishing of information would result in a "severely adverse effect on the physical or mental health of the patient." *Id*. at 883-84.

The court determined that the informational requirements of the statute did not impose an undue burden:

> [w]e permit a State to further its legitimate goal of protecting the life of the unborn by enacting legislation aimed at ensuring a decision that is mature and informed, even when in so doing the State expresses a preference for childbirth over abortion. In short, requiring that the woman be informed of the availability of information relating to fetal development and the assistance available should she decide to carry the pregnancy to full term is a reasonable measure to ensure an informed choice, one which might cause the woman to choose childbirth over abortion. This requirement cannot be considered a substantial obstacle to obtaining an abortion, and, it follows, there is no undue burden.

Id. at 883. The court likewise did not find the concept of a waiting period to be an undue burden:

> The idea that important decisions will be more informed and deliberate if they follow some period of reflection does not strike us as unreasonable, particularly where the statute directs that

[9] The Pennsylvania statute remains in effect today.

> important information become part of the background of the decision. . . . In theory, at least, the waiting period is a reasonable measure to implement the State's interest in protecting the life of the unborn, a measure that does not amount to an undue burden.

Id. at 885 (overruling a contrary finding in *City of Akron v. Akron Center for Reproductive Health*, 462 U.S. 416, 450-51 (1983)). The real question was whether the mandatory 24 hour waiting period was invalid because it was a "substantial obstacle to a woman's choice to terminate her pregnancy" *in practice*. *Id*. at 885.

The *Casey* court relied on several findings of fact made by the district court as to the burden imposed by the 24 hour mandatory delay law. Those findings include:

> 1. The practical effect will often be a delay of much more than a day because the waiting period requires that a woman seeking an abortion make at least two visits to the doctor.
>
> 2. In many instances the 24 hour delay will increase the exposure of women seeking abortions to the harassment and hostility of anti-abortion protestors demonstrating outside a clinic.
>
> 3. The waiting period will increase the cost and risk of delay of abortions.
>
> 4. The waiting period will be "particularly burdensome" to women who have the fewest financial resources, those who must travel long distances, and those who have difficulty explaining their whereabouts to husbands, employers, or others.

Id. at 885-86. The court characterized these findings as "troubling in some respects," but held they did not constitute an undue burden. *Id*. at 886. Nor did the court hold that the statute imposed a real health risk to women, particularly considering the medical exception as interpreted by the two lower courts. *Id*.

The court rejected a finding by the district court that the statute was unconstitutional because of the "particularly burdensome" effects it has on some groups of women. *Id*. 886-87. As stated by the court:

> A particular burden is not of necessity a substantial obstacle. Whether a burden falls on a particular group is a distinct inquiry from whether it is a substantial obstacle even as to the women in that group.

Id. at 887.

Finally, the court considered and denied an argument that the "various aspects of the informed consent requirement are unconstitutional because they place barriers in the way of abortion on demand." *Id*. The court found that, even the broadest reading of *Roe v. Wade* does not support a constitutional right to "abortion on demand." *Id*. Rather, the court made clear that a woman's right is "to decide to terminate a pregnancy free of undue interference by the State." *Id*. Based on the court's finding that Pennsylvania's informed consent requirement "facilitates the wise exercise of that right, it cannot be classified as an interference with the right *Roe* protects." *Id*.

B. Does the Iowa Constitution require a higher legal standard?

PPH argued that the court should apply a strict scrutiny standard because the case is brought under the Iowa Constitution as opposed to the United States Constitution. The state argued that the undue burden standard applies to claims under the Iowa Constitution just as it applies to claims under the United States Constitution. Several state courts have considered this argument in the course of deciding constitutional challenges of mandatory waiting period laws. The Iowa Supreme Court has considered the issue in the context of an abortion case, albeit not in the context of a challenge to a mandatory waiting period law.

In 2015, the Iowa Supreme Court considered for the first time whether the Iowa Constitution protected a woman's decision to terminate a pregnancy. *See Planned Parenthood of the Heartland, Inc. v. Iowa Bd. of Med.*, 865 N.W.2d 252, 261-62 (Iowa 2015) (hereinafter referred to as *PPH1*). In *PPH1*, the court noted that the United States Supreme Court had

recognized a woman's constitutional right to terminate a pregnancy more than forty years earlier in *Roe v. Wade*. *Id*. (*citing Roe*, 410 U.S. 113, 153-54 (1973)). The court further noted that the state conceded that the Iowa Constitution provides a right that is "coextensive with the federal right." *Id*. at 262-63. The court then evaluated PPH's claims under the Iowa Constitution by applying the federal undue burden standard. *Id*. at 268-69 (*citing to Casey*, 505 U.S. at 886). The court withheld consideration whether it would apply a strict scrutiny standard or some other test in a future case. *Id*. at 262-63.

At this point in time, it is unknown whether the Iowa Supreme Court would abandon the undue burden test when considering a challenge to a mandatory delay law. This case involves the same parties as *PPH1*. The state continues to concede that the rights granted under the United States Constitution are coextensive to those granted under the Iowa Constitution. The court heavily relied on *Casey* in its decision in *PPH1*, repeatedly citing to *Casey* as authority. *Casey* directly considered the constitutionality of an informed consent law that is similar to the Iowa Act. The undue burden standard has been in place for twenty-five years. It has been applied by a number of federal and state courts when considering other challenges to mandatory delay laws. While the Iowa Supreme Court could use a different legal standard under the Iowa Constitution in a future case, the court did not do so in 2015 when given the opportunity.

Several state courts have applied the undue burden test to challenges to mandatory wait laws under their state constitutions. The Missouri Supreme Court rejected that argument when considering a challenge to its 24 hour waiting period under the Missouri constitution. *Reprod. Health Servs. of Planned Parenthood of St. Louis Region, Inc. v. Nixon*, 185 S.W.3d 685, 691-92 (Mo. 2006). The court found no reason to construe language from the Missouri Constitution more broadly than the language used in the United States Constitution. *Id*. It proceeded to find

the statute constitutional under the *Casey* undue burden analysis. *Id*. Courts in Arizona and Indiana similarly rejected arguments to apply a stricter standard than *Casey* under their states' constitutions. *See e.g. Planned Parenthood Arizona, Inc. v. Am. Ass'n of Pro-Life Obstetricians & Gynecologists*, 257 P.3d 181, 191 (Ariz. App. 2011) (upholding Arizona's mandatory waiting period law; *Clinic for Women, Inc. v. Brizzi*, 837 N.E.2d 973, 984 (Ind. 2005) (upholding Indiana's mandatory waiting period law).

The Mississippi Supreme Court also addressed the argument whether to apply a strict scrutiny test under its state constitution. *Pro-Choice Miss. v. Fordice,* 716 So.2d 645, 654-55 (Miss. 1998). The Mississippi case is notable because its court previously applied a strict scrutiny test in cases involving constitutionally protected privacy rights. Notwithstanding the prior decisions, the court rejected the higher standard when considering a challenge to Mississippi's mandatory delay law. Instead, it applied *Casey's* undue burden standard. *Id*. As stated by the court:

> The abortion issue is much more complex than most cases involving privacy rights. We are placed in the precarious position of both protecting a woman's right to terminate her pregnancy before viability and protecting unborn life. In an attempt to create a workable framework out of these diametrically opposed positions, we adopt the wellreasoned decision in *Casey,* applying the undue burden standard to analyze laws restricting abortion. We do not limit any future application of the strict scrutiny standard for evaluating infringement on a person's right to privacy in other areas.

Id.

Some courts have applied a strict scrutiny standard under their state constitutions, but most have specific constitutional provisions that supported their findings. For example, the Florida Supreme Court recently granted a temporary injunction as to its 24 hour waiting period law based on its state constitution. *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243,

1252 (Fla. 2017). The Florida court relied on a constitutional amendment adopted in 1980, just seven years after *Roe v. Wade*, which expressly granted "the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein." Fla. Const. art. I, § 23. The Florida courts have interpreted that provision to expressly provide for more protection from government intrusion than provided by the federal constitution. *Gainsville Woman Care, LLC*, 210 So.3d at 1252.

Similarly, Montana has a constitutional provision specifically providing for a "right of individual privacy" that "shall not be infringed without the showing of a compelling state interest." *Armstrong v. State*, 989 P.2d 364, 372 (1999) (*citing* Article II, section 10). Like Florida, the Montana court applied a strict scrutiny analysis based on its finding that the express language in its constitution creating a fundamental right to privacy. The Iowa Constitution does not have a similar provision to either the Florida or the Montana Constitutions.

The Tennessee Supreme Court applied the strict scrutiny standard under its state constitution, albeit on somewhat different grounds. *Planned Parenthood of Middle Tennessee v. Sundquist*, 38 S.W.3d 1, 14 (Tenn. 2000). The court noted that its constitution used language much different from the federal constitution, including a constitutional provision condemning the so-called "doctrine of nonresistance." *Id*. at 14 (*citing* Tennessee Constitution Article I, section 2). The court described the intent of its constitutional provision as follows:

> This provision exemplifies the strong and unique concept of liberty embodied in our constitution in that it "clearly assert[s] the right of revolution." [cite omitted] . . . In essence, this section recognizes that our government serves at the will of the people of Tennessee, and expressly advocates active resistance against the government when government no longer functions to serve the people's needs. There is no better statement of our constitution's concept of liberty than this audacious empowerment of Tennesseans to forcibly dissolve the very government established but one Article later in our constitution.

Id. The Tennessee court strongly criticized the *Casey* standard, stating that "undue burden approach is essentially no standard at all." *Id*. at 16. The court then proceeded to adopt the United States Supreme Court's reasoning in *City of Akron*, which was expressly overruled in *Casey*, in construing the "express provisions" of the Tennessee Constitution. *Id*. at 14, 23.[10]

The reasoning of the Tennessee decision is not persuasive for multiple reasons. First, Tennessee has since passed a constitutional amendment to supersede the *Sundquist* decision by giving state officials authority to regulate abortions. *See* Tennessee Constitution Article I, section 36, Tennessee Constitution (2014). While the decision has not been overruled by the judiciary, it has been overruled by the people of Tennessee. Second, the decision has been criticized by at least one other court. *See Am. Ass'n of Pro-Life Obstetricians & Gynecologists*, 257 P.3d at 191. In that case, the Arizona Court of Appeals stated "[u]nlike the Tennessee court, we believe our courts are capable of properly applying the "undue burden" standard of *Casey*[.]" Third, the Tennessee Supreme Court's reliance on *City of Akron*, a case that was overruled by *Casey*, to support its finding under the Tennessee Constitution, appears to carry dubious legal logic. For these reasons, the *Sundquist* decision was given no persuasive value by this court.

These out-of-state cases support the continued application of the undue burden standard in Iowa. The states that have constitutional provisions similar to Iowa's have applied the same standard in challenges to mandatory wait laws. The states that have applied a higher standard have different, express language in their constitutions to support a higher standard. As held by the Mississippi Supreme Court, the courts in Iowa can benefit from the experience the United States Supreme Court had when evaluation the complex balancing of rights that led to the

[10] While the court decided the case under its state constitution, it also included a short discussion finding that the statute also would have failed the undue burden under *Casey*. *Id*. at 24.

adoption of the undue burden test. There is no reason to abandon the test as applied by the Iowa Supreme Court just two years ago.

C. Impact of *Hellerstedt* on *Casey*.

As discussed on page 20 of this decision, the *Casey* court summarized the undue burden standard in three different parts. In doing so, it distinguished laws that are intended to promote the state's "profound interest in potential life" through informed choice, as distinguished from laws that are intended to promote the state's interest in the health or safety of a woman. *Casey*, 505 U.S. at 878.

The Iowa Supreme Court highlighted the difference between the two standards in *PPH1*:

> The [United States Supreme] Court applies the undue burden test differently depending on the state's interest advanced by a statute or regulation. If the state's interest is to advance fetal life, "[a]n undue burden exists, and therefore a provision of law is invalid, if its purpose or effect is to place a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability." *Casey*, 505 U.S. at 878 [].
>
> On the other hand, if the state's interest is to further the health or interest of a woman seeking to terminate her pregnancy, "[u]nnecessary health regulations that have the purpose or effect of presenting a substantial obstacle to a woman seeking an abortion impose an undue burden on the right." *Id*. at 878 [].

PPH1, 865 N.W.2d at 263-64. *PPH1* concerned a regulation adopted by the Iowa Board of Medicine that required a physician who performed a medication abortion to personally perform a physical examination of the patient. *Id*. at 253. The proposed purpose of the regulation was to protect the health and safety of patients. *Id*. at 257. As a result, the court evaluated the rule under the standard applicable to health regulations.

Last year, the United States Supreme Court reviewed a case involving two provisions of a Texas statute that imposed regulations on physicians who conducted abortions. *See Whole*

Woman's Health v. Hellerstedt, 136 S. Ct. 2292 (2016). The first provision required a doctor who performs abortions to have admitting privileges at a hospital within 30 miles from the location that the abortion is performed or induced. *Id*. at 2300. The second provision required abortion facilities meet minimum standards for ambulatory surgical centers. *Id*.

The *Hellerstedt* court expressly evaluated the case under the prong of the *Casey* analysis regarding a state's attempt to implement "[u]nnecessary health regulations that have the purpose or effect of presenting a substantial obstacle to a woman seeking an abortion[.]" *Id*. at 2309 (*citing to Casey*, 505 U.S. at 878). The court recognized, as did the court in *Casey*, that the state has a "legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that insure maximum safety for the patient." *Id. (citing Roe v. Wade,* 410 U.S. 113, 150 (1973)). The court reiterated that "[u]nnecessary health regulations that have the purpose or effect of presenting a substantial obstacle to a woman seeking an abortion impose an undue burden on the right." *Id*. This analysis runs directly from the language in *Casey* governing a state's ability to adopt laws to protect patient safety.

In discussing the circuit court decision under review, the *Hellerstedt* court clarified the *Casey* analysis of laws that impose health-related regulations. The court found the lower court decision, which "may be read to imply that a district court should not consider the existence or nonexistence of medical benefits when considering whether a regulation of abortion constitutes an undue burden," to be in error. *Id*. at 2309. The supreme court held that *Casey* requires that "courts consider the burdens a law imposes on abortion access together with the benefits those laws confer."[11] *Id*.

[11] The Iowa Supreme Court proved prophetic on this point, as it held in *PPH1* that the "unnecessary health regulations" language used in *Casey* required the court to "weigh the strength of the state's justification for a statute against the burden placed on a woman seeking to terminate her pregnancy[.]" *PPH1*, 865 N.W.2d at 264. Therefore, *Hellerstedt* does not impact the decision in *PPH1*.

The supreme court found that the record did not support Texas' argument that the admitting privileges and surgical center provisions improved safety for women having abortions. As to the first provision, the court noted that Texas could not identify a "single instance in which the new requirement would have helped even one woman obtain better treatment[.]" *Id*. at 2311. However, the record showed that the admitting privileges provision alone would have a dramatic impact on women seeking abortions. That provision was expected to cause half of the state's abortion clinics to close. *Id*. at 2312. The surgical center requirement was expected to reduce the number of facilities even more, putting considerable pressure on the few that remained to provide services from all women seeking abortions in the state. *Id*. at 2316. The court found the law did not improve health care for woman, but imposed significant burdens. For those reasons, it was found unconstitutional.

There is no indication in *Hellerstedt* itself that it disturbed the holding in *Casey* regarding laws intended promote a state's "profound interest in potential life." *Casey*, 505 U.S. at 878. Nor did it disturb the state's interest to persuade a woman to choose childbirth over abortion, as long as those measures are not an undue burden on the right. *Id*. *Hellerstedt's* holding appears limited to reviews of statutes enacted for the purpose of promoting the health of women seeking abortions.

In the present case, the Act was not adopted to protect the welfare of women seeking an abortion.[12] Rather, it was adopted to promote the state's interest in potential life by taking measures to ensure that the woman's choice is informed. *See Casey*, 505 at 878. Measures "designed to advance this interest will not be invalidated as long as their purpose is to persuade the woman to choose childbirth over abortion." *Id*. There is no need to evaluate the state's

[12] The express intent of Senate File 471 was to "enact policies that protect all unborn life." 2017 S.F. 471, § 5.

justification further than that. The United States Supreme Court has established that the state has an interest in potential life, and that it may promote that interest by requiring informed consent as long as it does create a substantial obstacle to a woman seeking an abortion. As stated in *Casey*, "under the undue burden standard a State is permitted to enact persuasive measures which favor childbirth over abortion, even if those measures do not further a health interest." *Casey*, 505 U.S. at 886. Accordingly, as applied to the present case, the analysis from *Casey* remains unchanged by *Hellerstedt*.

D. Decisions from other courts.

Twenty-seven of the 50 states have adopted mandatory waiting period laws.[13] The length of the waiting period in these states ranges from 18 hours in Indiana to 72 hours in six states (not including Iowa). Seventeen of the 27 states that have passed a law use a 24 hour waiting period. Legal challenges to the mandatory waiting period laws have been filed in some of these states. Several of those cases have already been outlined in part B of the conclusions of law in this decision. As discussed in part B, the courts that have applied *Casey* have upheld their mandatory waiting period laws. Beyond the decisions already referenced, there are several federal court decisions that are helpful to deciding this case.[14]

The Seventh Circuit Court of Appeals discussed Indiana's 18 hour waiting period in detail in *A Woman's Choice-E. Side Women's Clinic v. Newman*, 305 F.3d 684, 692 (7th Cir. 2002).[15] The court adopted *Casey's* assumption that the waiting period would have the greatest

[13] *See* Respondent's brief at pp. 13-14 for the citations to statutes. The following states have 24 hour waiting period (Arizona, Georgia, Idaho, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Nebraska, North Dakota, Ohio, Pennsylvania, South Carolina, Texas, Virginia, West Virginia, and Wisconsin). Three have a 48 hour waiting period (Alabama, Arkansas, and Tennessee). Six have a 72 hour waiting period (Louisiana, Missouri, North Carolina, Oklahoma, South Dakota, and Utah).

[14] The court did not consider unreported district court decisions, although it understands some other courts may have ruled on similar issues.

[15] The Indiana law was recently enjoined pursuant to a change in law that added a new ultrasound requirement. That provision is stricter than Iowa law, in that it *requires* a woman to view the ultrasound unless she expressly certifies

impact on "women who have the fewest financial resources, those who must travel long distances, and those who have difficulty explaining their whereabouts to husbands, employers, or others[.]" Id. at 691-92. The court found that the record in its case showed that there would some additional costs and those costs may have some effect, but that was "something that the plurality in *Casey* assumed." *Id*. at 692. The court held that "[t]his is not the sort of evidence that permits an inferior federal court to depart from the holding of *Casey* that an informed-consent law is valid even when compliance entails two visits to the medical provider." *Id*.

The *Newman* case is also notable for its criticism of using out-of-state studies as evidence of an undue burden. Petitioners produced evidence from studies in Mississippi and Utah (as did PPH in the present case), two states that operated under 24 hour waiting period laws that had been upheld by their courts. *Id*. at 692 (citing *Barnes v. Moore,* 970 F.2d 12 (5th Cir. 1992) (Mississippi); *Utah Women's Clinic, Inc. v. Leavitt,* 844 F.Supp. 1482, 1487, 1494 (D. Utah 1994), appeal dismissed in pertinent part for lack of jurisdiction, 75 F.3d 564 (10th Cir. 1995)). The court found it would be "incongruous" to use studies from Mississippi and Utah, which imply that the laws in those states are unconstitutional, even though the laws continued to be enforced in those states following failed court challenges. *Id*. As stated by the court:

> if these laws remain enforceable despite the consequences demonstrated in this record, it is difficult to see why Indiana's law should be unenforceable even though it is unclear whether similar effects would occur there. Indiana is entitled to an opportunity to have its law evaluated in light of experience *in Indiana.* And in the event the sort of effects that could make the burden undue—such as women deterred by the threat or actuality of violence at the hands of those tipped off by a preliminary visit—come to light in Indiana, then it will be informed-consent laws nationwide that must be reevaluated.

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that she does not wish to see or hear the images. *See Planned Parenthood of Ind. & Ky v. Commissioner*, No. 1:16-cv-01807, 2017 WL 1197308 (S.D.Ind. Mar. 31, 2017). That decision did not purport to overrule *Newman*. Litigation in that case is ongoing.

Id. at 692-93 (emphasis in original).

In Kentucky, a federal district court judge relied on *Casey* while rejecting a challenge to its 24 hour waiting period. *Eubanks v. Schmidt*, 126 F. Supp. 2d 451, 456 (W.D. Ky. 2000). This decision is notable because the court distinguished among the claims made by different categories of women who seek abortions. For example, the court found that some poor women would have difficulty obtaining funds, coordinating transportation, or maintaining confidentiality to make even one trip to an abortion provider. *Id*. However, if they were so affected by their personal circumstances that they could not make the single trip needed to obtain the abortion, the requirement to make a second trip changed little. *Id*. The court did not consider that group of women as part of the constitutional analysis. As to other women, the court found the waiting period to make abortions "marginally more expensive and more difficult to obtain." *Id*. For many, the marginal increase in cost and inconvenience will not affect their ability to obtain an abortion. *Id*. The court found it speculative to find that the waiting period would serve as a substantial obstacle to a large fraction of the group from exercising their right to choose. *Id*. As summarized by the court, "[s]imply put, the twenty-four hour informed consent period makes abortions marginally more difficult to obtain, but, unlike the spousal consent requirement, it does not fundamentally alter any of the significant preexisting burdens facing poor women who are distant from abortion providers." *Id.*

The *Eubanks* court also reviewed the reliability of the Joyce study from Mississippi, which was cited by experts in the present case. The court did not find the study to be persuasive because it did not answer the "critical question: *why* do some women who are forced to wait twenty-four hours ultimately not have an abortion?" *Id*. at 457 (emphasis in original). The court found that its record did not contain reliable data showing what motivates decision making. *Id*.

In Ohio, the court specifically considered the impact on abused women seeking an abortion. *Cincinnati Women's Servs., Inc. v. Taft*, 468 F.3d 361, 372–73 (6th Cir. 2006). The parties had stipulated that approximately 12.5 percent of abused women would be deterred from obtaining an abortion due to the increased risk of retaliation caused by the second trip to the provider. *Id*. at 373. While there was some debate as to how that should be measured, the court found that percentage insufficient to arise to a substantial obstacle under either party's theory. *Id*. As noted by the court, "[t]o date, no circuit has found an abortion restriction to be unconstitutional under *Casey's* large-fraction test simply because some small percentage of the women actually affected by the restriction were unable to obtain an abortion." *Id*. at 374. As a result, the court upheld the statute.[16]

The Seventh Circuit Court of Appeals also upheld the 24 hour waiting period in Wisconsin. *Karlin v. Foust*, 188 F.3d 446 (7th Cir. 1999). In *Karlin*, the court repeatedly cited to the rule from *Casey* that a law must have a "strong likelihood of *preventing* women from obtaining abortions rather than merely making abortions more difficult to obtain." *See id*. at 482 (emphasis in original). The court considered the evidence in the record and found it not significant enough to suggest that women in Wisconsin were more burdened by its law than women in Pennsylvania were burdened by its law. *Id*. at 486.

The *Karlin* court also found, similarly to *Eubanks*, that the studies from Mississippi were not reliable evidence of an undue burden because they did not explain why the law had the effect of lowering the number of abortions. *Id*. at 487. Rather, the court turned the argument on its head, pointing out from *Casey* that the state had a legitimate interest in persuading a woman to

[16] The court did find the bypass provision for minors seeking an abortion to be unconstitutional under the Casey analysis. *Id*. at 369-71.

carry her child to term, so the reduction in abortions may be attributable to the persuasive effects of the law as opposed to any burdens it imposes. *Id*.

In *Planned Parenthood Minnesota, N. Dakota, S. Dakota v. Daugaard*, 799 F. Supp. 2d 1048, 1066 (D .S.D. 2011), a federal district court judge entered a preliminary injunction preventing implementation of South Dakota's 72 hour mandatory waiting period. However, that decision is factually and procedurally distinct from this case. There was only one abortion clinic in the entire state of South Dakota, and it only performed abortions one day per week. *Id*. at 1064. The court found that women could face a delay of one month between the initial consultation and the abortion procedure. *Id*. South Dakota did not permit second trimester abortions, so the law placed a substantial obstacle to obtaining any abortion if the first appointment was scheduled too late. *Id*. at 1066. The case was decided under a more forgiving standard at the preliminary injunction stage. The case was later resolved after the legislature made changes to the statute, so no final decision was entered by the court. *See Planned Parenthood Minn., N.D. v. Daugaard*, 946 F. Supp. 2d 913, 917 (D.S.D. 2013). For these reasons, the court does not give the South Dakota decision any persuasive value.[17]

E. Fact finding in constitutional challenges.

PPH presented evidence to attempt to contradict, or at least undercut, some of the findings underlying the decision in *Casey*. Parties may present evidence to contest legislative facts or assumptions when challenging the constitutionality of a statute. *Hellerstedt*, 136 S. Ct. at 2310. Even if a legislative body makes express factual findings in support of a statute, the

[17] The Eighth Circuit Court of Appeals has repeatedly upheld the constitutionality of the informed consent portions of South Dakota's law. *Planned Parenthood Minnesota, North Dakota, South Dakota v. Rounds*, 686 F.3d 889 (8th Cir. 2012) (requiring a physician to inform the patient of known medical risks of depression and increased risk of suicidal ideation and suicide); *See also Planned Parenthood of Minn., N.D., & S.D. v. Rounds*, 653 F.3d 662 (8th Cir. 2011) (reversing as to a different aspect of the law); *Planned Parenthood of Minn., N.D., & S.D. v. Rounds*, 530 F.3d 724 (8th Cir. 2008) (vacating preliminary injunction). However, the circuit court has not considered the mandatory waiting period provision.

courts have found it "inappropriate" to give "[u]ncritical deference to Congress' factual findings[.]" *Id*. In *PPH1*, the Iowa Supreme Court applied these standards when considering the constitutionality of the administrative rule under review. *See PPH1*, 865 N.W.2d at 264-69. The court, citing to *Casey*, observed that its decision would "turn[] on the evidence and the record in that case[.]" *Id*. The Iowa Supreme Court then cited to the lack of evidence in the case before it in concluding that the Iowa Board of Medicine's administrative rule did not comply with the constitutional standard. *Id*.

Some care must be taken when applying fact-finding to constitutional challenges in a case such as this. This court cannot disregard the legal findings in *Casey* simply because this case involves a challenge to a different statute with a different factual record. To do so would potentially undermine the rule of law set forth in *Casey*. However, there may be grounds to reach a different result. There are some distinctions between the two statutes. There may be obstacles facing women in Iowa that were not obstacles facing women in Pennsylvania. Twenty-five years has passed since *Casey* was announced, so there may be fundamental changes effecting women seeking abortions that have evolved over that time. Petitioners' constitutional challenges were considered with these issues in mind.

F. Differences between Pennsylvania and Iowa's statutes.

The Pennsylvania statute under review in *Casey* is similar to Iowa's statute in several ways. The structure of the Act is similar in that it requires information to be shared and that the patient certifies receipt before an abortion can be performed. The Iowa Act has more detail as to the information to be offered women, but not materially so. Both acts require a mandatory delay

before an abortion can be performed, allow an exception for medical emergency, and impose licensing penalties on physicians who do not comply with the statute.

There are some differences between the two statutes, with Iowa's being more restrictive. Iowa's waiting period is 72 hours rather than 24 hours. The Iowa Act requires a woman to undergo an ultrasound and be given an opportunity to view the image and hear a description of the unborn child. The medical emergency provision is different. The Pennsylvania statute allowed an exception when the physician, in his or her judgment, informs the woman that an "abortion is necessary to avert her death or to avert substantial and irreversible impairment of major bodily function." The *Casey* court relied on lower court interpretations of the medical emergency exception to include conditions such as preeclampsia, inevitable abortion, or prematurely ruptured membrane, in support of its finding that the waiting period did not pose a real risk to women. *Casey*, 505 U.S. at 886; *see Planned Parenthood of Se. Pennsylvania v. Casey*, 947 F.2d 682, 701 (3d Cir. 1991). The Iowa Act allows an exception: a) to save the life of a pregnant woman, b) in a "medical emergency," or, c) in the physician's reasonable medical judgment, designed or intended to prevent the death or preserve the life of the pregnant woman. "Medical emergency" is not defined in Iowa Code chapter 146A, so the legislation is not clear that "medical emergency" would be defined as broadly as the exception in *Casey*.

G. Application of the undue burden test to this case.

PPH made several distinct claims to support its argument that the Act imposes an undue burden on women seeking an abortion. Many of those individual claims are the same as those made in *Casey* or the cases that followed. Much of the trial focused on the additional costs, problems arranging for transportation, problems relating to the amount of time spent in transportation, and maintaining confidentiality. However, each of these burdens was considered

in *Casey*. PPH was not able to show a material distinction as to how each individual claim impacted women in Pennsylvania versus how they impact women in Iowa.

PPH's argument is better viewed as a collective global claim. The evidence is clear that the Act will not persuade the vast majority of women against choosing an abortion. The women in this group have thought hard about the decision by the time they make the appointment to have an abortion. They have researched their options. They are not going to change their minds. Yet, the women in this group are going to be impacted by the Act. They are going to be forced to go to take the time, expense, and effort to attend two appointments, whereas women previously only needed to schedule one. For women in the group who are firm with their decision to have an abortion, the Act will serve no public purpose other than to delay the abortion itself. They will wait because the state hopes to persuade the comparatively small minority of women who are not firm with their decision to proceed to childbirth.

The impact on the women who are firm with their decision will vary depending on their personal circumstances. For some, scheduling a second appointment may amount to little more than an inconvenience. For many, the impact will be greater. There is the additional stress of continuing the pregnancy for a longer period of time. There are small, but incremental increases in the health risks when a pregnancy is extended to a longer gestational age before having an abortion. There is a level of emotion, whether anger, despair, or disappointment, that comes from thinking that lawmakers don't believe that women are capable of making an important personal decision on their own. While the legislature may not have intended to demean women when enacting this law, there is no language in SF 471 to support or encourage women who are suffering through an unwanted pregnancy. There is no provision in the law to accommodate rural women who live long distances from a PPH center, such as offering an informed consent

session by telephone or providing free ultrasounds.[18] Nor is there accommodation for women who are unemployed or receiving public assistance. It is not surprising that the record shows that women seeking an abortion are frustrated that the Act will cause them to delay action on a decision they have already made.

There are greater impacts on other groups of women, as discussed in detail the findings of facts. The Act will impose the greatest financial hardships on those who live farthest from PPH centers. Scheduling delays could result in losing the option to choose a safer medication abortion. Requiring two visits to PPH will result in some women having to reveal their pregnancy and decision to have an abortion to other people in their lives, which particularly impacts women who are victims of domestic abuse. Women who are pregnant as a result of sexual abuse have a compelling interest to start the process of emotionally moving on by obtaining an abortion.

In addressing these concerns, the court must apply the standard set by law. The undue burden test is the standard. The undue burden standard has been criticized, but it fairly balances the two competing interests of a woman's right to choose an abortion versus the public's interest in potential life. The evidence at trial focused on the hardships women face when dealing with an unwanted pregnancy, but the public's interest in potential life is an interest that cannot be denied under the law. Both of these interests are important. There is a reason why people have such strong convictions on the issue of abortion. Those convictions are based, not only on our constitutions and the case law interpreting those provisions, but also on inherent, deep-seated moral beliefs.

[18] Multiple states provide accommodations such as free ultrasounds to qualifying women. *See e.g.* Kan. Stat. §§ 65-6701-6715; Neb. Rev. Stat. § 28-327; Utah Code § 76-7-305.

When applying the undue burden test, petitioners have not met that standard. *Casey* makes clear that the issue at stake is whether the burden serves as a substantial obstacle to a woman exercising her right to choose an abortion, and not whether there are additional costs imposed. *Casey*, 505 U.S. at 877*; see also Newman*, 305 F.3d at 691-92. There is no question that the second trip will have some impact on low-income women and those who have to drive longer distances. However, the fact that there is some burden is not dispositive if the Act does not place a substantial obstacle in the way of women getting an abortion. For a woman who cannot make a single trip to PPH due to transportation or money problems, the Act has no impact because she would not have been able to travel to a provider before the Act passed. *See Eubanks*, 126 F. Supp. 2d at 456. For a woman able to make the one trip, the record does not show the incremental cost of a second trip to be so great as to constitute a substantial obstacle in obtaining an abortion. There will be some costs and confidentiality concerns, but these are the same concerns that were considered and rejected in *Casey*.

The statistics concerning victims of domestic abuse and rape are more concerning. It is understandable why women in this group want to avoid a delay and a second visit to a PPH center. However, the statistics presented through Dr. Walker were not materially different from the evidence presented and rejected in *Taft*. *See* 468 F.3d at 372–73. Dr. Walker testified that approximately 13.8 percent of women seeking an abortion reported being subject to physical or sexual abuse within the prior year, but she did not testify to the number that would be deterred from obtaining an abortion due to the increase in risk of retaliation that would be caused by a second trip to a clinic. Her testimony was not as definitive as the evidence presented in *Taft* regarding the obstacles facing pregnant women who are victims of abuse. Even if her testimony

is given the broadest possible meaning, the impact is about the same as the evidence that did not constitute a substantial obstacle to obtaining an abortion in *Taft*.

The Iowa Act is different from the Pennsylvania Act in that the mandatory delay is 72 hours rather than 24. PPH characterizes this difference as triple the delay, but the court does not find the extra two days to be material in light of the case law and the record. In *Casey*, the court found that the practical effect of a 24 hour delay will "often be much more than a day[,]" so the supreme court has long-recognized that delays will run outside the minimum set by law. *See Casey*, 505 U.S. at 885-86; *see also Taft*, 468 F.3d at 372. The evidence in this case showed that the delay will more likely range from a week to two. The record did not show that a delay of that length would serve as a substantial obstacle to getting an abortion, any more than the 24 hour delay in *Casey*. Because the vast majority of patients research their options prior to obtaining an abortion, it is reasonable to believe that most will accommodate for the extra few days needed to schedule two appointments after the 72 hour delay is put into effect.

PPH witnesses cited to a number of studies, but the court sees the same problems with the research as cited by other courts. The research does show a high level of decisional certainty, but *Casey* made clear that there is no right to abortion on demand. *Casey*, 505 U.S. at 887. The research also shows that some women do not return to the clinic to have an abortion after the first appointment, but it does not distinguish the reasons why. As stated by the Seventh Circuit, women may not return to the clinic to have an abortion because they were persuaded by the information provided to take the pregnancy to term. *Karlin*, 188 F.3d at 487. This falls within the legitimate interests of the state.

In fact, despite the number of studies cited by Dr. Grossman, he testified that the research only identifies one person who was actually denied an abortion because the waiting period

pushed the abortion back to a period outside gestational age limit. He also acknowledged that the research does not specifically show that mandatory delay laws cause women to give up their decision to choose to have an abortion. The research presented simply does not show that the waiting period will impose a substantial obstacle on women seeking to obtain an abortion.

The Iowa Act contains an ultrasound requirement that was not present in the Pennsylvania Act reviewed in *Casey*. However, the primary concern with the ultrasound requirement was that the Iowa Act would force patients to make two trips to a PPH center. The court has accepted that argument. PPH performs an ultrasound as a matter of practice before it takes an abortion, so the law does not impose a requirement that PPH does not already perform. There was some evidence that there might be times when a second ultrasound could be needed, but not sufficient evidence to establish how often that might occur. The ultrasound requirement does not impose a substantial obstacle to getting an abortion.

It is questionable whether the medical emergency exception differs from the Pennsylvania Act. Many courts have cited broader medical exception provisions as supporting the constitutionality of the statute under review. *See e.g. Nixon*, 185 S.W.3d at 687 (allowing an exception when, in the physician's good faith clinical judgment, a delay will create a "serious risk of substantial and irreversible impairment of a major bodily function"); *Karlin*, 188 F.3d at 459 (similar). As stated above, the Act provides for an exception "in a medical emergency," but does not define "medical emergency." However, "medical emergency" is defined in Division II of 2017 S.F. 471; Iowa Code § 146B.1(6). That division created Iowa Code chapter 146B, which prohibits abortion after twenty weeks. The section 146B.1(6) definition defines "medical emergency" to include the "serious risk of substantial and irreversible impairment of a major

bodily function" language comparable to other state statutes. However, section 146B.1 only expressly applies to terms as used in chapter 146B.

It makes sense to apply the section 146B.1(6) definition to "medical emergency" as used in section 146A.1(2)(b). Section 146B.1 was created as part of the same senate file that created section 146A.1. Applying the section 146B.1 definition to section 146A.1 would give meaning to the "medical emergency" language. *See Petition of Chapman*, 890 N.W.2d 853, 857 (Iowa 2017) (presuming that the legislature intended all parts of a statute to serve a purpose). The definition is consistent with the mandatory waiting period language from other states' laws. There is no reason to believe that the definition is inconsistent with the legislative intent. Therefore, the court finds that "medical emergency," as used in section 146A.1(2)(b) is defined consistently with the definition of "medical emergency" in section 146B.1(6). Because that definition is consistent with the medical exception language in *Casey* and several other abortion laws that have been found constitutional, the court finds that the medical exception does not cause the Act to fail the undue burden test.

While this court decided that *Hellerstedt* does not change the undue burden test as applied to this case, the Act would still be upheld under *Hellerstedt*. In that case, the court considered the strength of evidence supporting the State's purpose in enacting the law. Here, the state presented evidence supporting the purpose for the law. One of the Utah studies showed that eight percent of women changed their minds about having an abortion after the informed consent appointment. A study from Los Angeles showed a correlation between viewing the ultrasound and following through with childbirth over abortion. Most of the women who changed their minds in the Los Angles study had a low or medium level of decisional certainty, which provides

some support for the legislative purpose to allow women to take more time before making a final decision.

All of the studies show at least some percentage of women who have low or moderate decisional certainty when they go to a clinic to have an abortion. The Act will give women in this group an opportunity to collect information and take some additional time before proceeding with an abortion. To be sure, this group is a minority, but there is a measurable number of women who may change their minds and continue the pregnancy. This supports the state's purpose to promote childbirth.

The Act does not impose the type of burden that would have resulted from implementation of the laws in Texas in *Hellerstedt*. The evidence in *Hellerstedt* showed that most clinics would close due to the implementation of the law. The evidence in the present case shows that no clinics would close as a result of the implementation of the Iowa Act. Likewise, the Act does not impose the type of burden that would have resulted from the Iowa Board of Medicine's administrative rule in *PPH1*, which would have resulted in the closure of several centers that offered medication abortions. PPH may be closing centers in Iowa for other reasons, but not as a result of the Act.

There is no question that the Iowa legislature could have written the Act to be less restrictive. It could have required a 24 hour versus a 72 hour delay. It did not have to require an ultrasound. It could have provided accommodations to assist poor women and women who must travel longer distances to a clinic. The medical exception provision could have been broader and more express. It could have provided an exception for rape and victims of domestic abuse. However, it is ultimately the province of the legislature to make those decisions as long as they comply with constitutional requirements. The Iowa Act is arguably the strictest mandatory

waiting period law in the country, but the only question to the court is whether it complies with the constitutional standard. It does.

H. Equal protection claim.

PPH also made an equal protection claim. Typically, when the rational basis test is involved, the court evaluates that basis similarly for equal protection and due process purposes. *King v. State*, 818 N.W.2d 1, 32 (Iowa 2012). The undue burden test is unique to abortion cases and was created to balance the various interests involved. It makes sense to apply the same test whether considering petitioners' claims under the due process or equal protection clauses. With that said, petitioners would not prevail even if an intermediate scrutiny standard applied.

The courts have used an intermediate scrutiny standard when reviewing gender-based classifications. *Varnum v. Brien*, 763 N.W.2d 862, 896–97 (Iowa 2009). "To withstand intermediate scrutiny, a statutory classification must be substantially related to an important governmental objective." *Id.* (quotes omitted). The United States Supreme Court has already ruled that the state has a "profound interest" in promoting potential life over abortion. *Casey*, 505 U.S. at 878; *see also Maher v. Roe*, 432 U.S. 464, 478 (1977) ("State unquestionably has a strong and legitimate interest in encouraging normal childbirth[.]"). As discussed above, the state presented evidence to show the Act is substantially related to that interest, as some women will decide not to follow through with an abortion following an informed consent appointment. While the court understands petitioners' arguments that women feel demeaned by the mandatory delay, *Casey* rejected the argument that women have a right to abortion on demand. Similar arguments have been rejected in an equal protection context in the past:

> [O]pposition to voluntary abortion cannot possibly be considered such an irrational surrogate for opposition to (or paternalism towards) women. Whatever one thinks of abortion, it cannot be denied that there are common and respectable reasons for opposing

> it, other than hatred of, or condescension toward (or indeed any view at all concerning), women as a class—as is evident from the fact that men and women are on both sides of the issue[.]

Bray v. Alexandria Women's Health Clinic, 506 U.S. 263, 270–71 (1993). As stated by the court, "[w]e certainly are not unsympathetic to the plight of an indigent woman who desires an abortion, but the Constitution does not provide judicial remedies for every social and economic ill." *Maher v. Roe,* 432 U.S. 464, 479 (1977).

The Iowa Supreme Court did not rule on an equal protection argument in *PPH1*, although it quoted from a Seventh Circuit Court of Appeals decision that "[a]n issue of equal protection of the laws is lurking in this case." *PPH1*, 865 N.W.2d at 269 (quoting *Planned Parenthood of Wisconsin v. Van Hollen*, 738 F.3d 786, 790 (7th Cir. 2013). However, that statement was made in the context of a discussion regarding the Board of Medicine's decision to adopt a rule regulating abortion by telemedicine, even though it had not adopted rules regulating other medical procedures by telemedicine. There was little evidence presented at the trial in the present case regarding consent and waiting periods for other procedures. Based on this record, the equal protection claim must be denied.

ORDER

Plaintiff's claims for declaratory and injunctive relief are denied. Section one of Senate File 471 is constitutional and shall go into effect. Court costs are assessed to petitioners.

The Iowa Supreme Court's order of May 9, 2017, stated that its stay shall remain in effect "until ten days after the district court has entered an order on the final hearing." This court cannot disturb that order, but the court is concerned with the practical problems that resulted after the legislation briefly went into effect on short notice on May 5, 2017. Accordingly, this

court grants its own stay of thirty days from the date of this decision to allow the parties some additional time to seek a further stay from the supreme court. The Act shall go into effect after the conclusion of the thirty day period, unless petitioners receive a stay or injunction from the Iowa Supreme Court.

State of Iowa Courts

Type: OTHER ORDER

Case Number	**Case Title**
EQCE081503	PLANNED PARENTHOOD OF THE HEARTLAND VS TERRY BRANSTAD ET AL

So Ordered

Jeffrey Farrell, District Court Judge,
Fifth Judicial District of Iowa