

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

PLANNED PARENTHOOD OF THE
HEARTLAND, INC., EMMA GOLDMAN
CLINIC, and SARAH TRAXLER, M.D.,

Petitioners,

v.

KIM REYNOLDS *ex rel.* STATE OF IOWA,
IOWA BOARD OF MEDICINE,

Respondents.

Equity Case No. _____

**PETITION FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF**

COME NOW Petitioners Planned Parenthood of the Heartland, Inc. (“PPH”), Sarah Traxler, M.D., and Emma Goldman Clinic (“EGC”) (collectively, “Petitioners”), by and through their attorneys, Rita Bettis Austen and Sharon Wegner of the American Civil Liberties Union of Iowa Foundation; Peter Im, Anjali Salvador, and Dylan Cowit of Planned Parenthood Federation of America; and Caitlin Slessor and Samuel E. Jones of Shuttleworth & Ingersoll, PLLC, pray for emergency temporary injunctive relief, as well as permanent injunctive relief, restraining Respondents Governor Kim Reynolds *ex rel.* State of Iowa and the Iowa Board of Medicine (collectively, “the State”) from enforcing House File 732 (“HF 732” or “the Act”), as well as a declaratory judgment that the Act violates the Iowa Constitution, and in support thereof state the following:

STATEMENT OF THE CASE

1. Petitioners bring this action to challenge the constitutionality of HF 732, to be codified at Iowa Code chapter 146E, which will go into immediate effect when Governor Reynolds signs into law on July 14, 2023. The Act bans abortions upon the detection of embryonic or fetal cardiac activity, which can occur as early as six weeks of gestational age, as measured from the first day of a pregnant person’s last menstrual period (“LMP”)—before many people even know that they are pregnant. *See* HF 732 § 2(2)(a) (“Exhibit A”); Affidavit of Sarah A. Traxler (“Traxler Aff.”) ¶ 13. If it is not enjoined, the Act will decimate access to abortion in Iowa.

2. In 2019, this Court permanently enjoined a virtually identical 2018 law that also banned abortions upon the detection of embryonic or fetal cardiac activity (“the 2018 Six-Week Ban”). *See* Ruling on Mot. for Summ. J., *Planned Parenthood of the Heartland, Inc. v. Reynolds*, No. EQCE83074 (Polk Cnty. Dist. Ct. Jan. 22, 2019). Last December, this Court denied the State’s motion to dissolve that injunction, holding that “[t]he ban on nearly all abortions” would violate the Iowa Constitution under the undue burden standard. Ruling on Mot. to Dissolve Perm. Injunction Issued Jan. 22, 2019 at 15, *Planned Parenthood of the Heartland*, No. EQCE83074 (Dec. 12, 2022). Less than one month ago, the Iowa Supreme Court affirmed this Court’s ruling by operation of law. *See Planned Parenthood of the Heartland, Inc. v. Reynolds*, No. 22-2036 (Iowa June 16, 2023).

3. On July 5, 2023, less than three weeks after the Supreme Court issued its order, Governor Reynolds called the Iowa General Assembly into a one-day special session on July 11 “for the sole and single purpose” of enacting an abortion ban to replace the one permanently enjoined by this Court. *See* Proclamation of Special Session (July 5, 2023) (“Exhibit B”).

4. During this one-day special session, the General Assembly introduced, debated, and passed the Act. Debate in each chamber lasted less than seven hours, and the entire session

lasted less than a day—less than the twenty-four hours that Iowa law requires patients to wait before having an abortion. *See* Iowa Code § 146A.1. The General Assembly passed the Act before midnight on July 11.

5. Shortly afterward, Governor Reynolds issued a statement in response to the passage of the Act, stating that she will sign it into law on Friday, July 14, 2023. *See* Press Release, Office of Governor Kim Reynolds, Gov. Reynolds Statement on Special Session to Protect Life (July 11, 2023), <https://governor.iowa.gov/press-release/2023-07-11/gov-reynolds-statement-special-session-protect-life> (“Exhibit C”).

6. The Act will take effect immediately upon Governor Reynolds’s signature. *See* HF 732 § 3.

7. Because the Act takes effect so early in pregnancy, it will ban the vast majority of abortions in Iowa. The Act bans abortions at a stage at which many people do not yet know they are pregnant, and even those who do know may not have had time to make a decision about whether to have an abortion, research their options, and schedule appointments at a health center, not to mention overcoming the logistical and financial obstacles required to travel to a health center for an abortion.

8. By banning the vast majority of abortions in Iowa, the Act unlawfully violates the rights of Petitioners, their medical providers and other staff, and their patients under the Iowa Constitution and would severely jeopardize their health, safety, and welfare.

9. To safeguard themselves, their medical providers and other staff, and their patients from this unconstitutional law, Petitioners seek a temporary injunction to take effect upon the Act’s enactment by the Governor, followed by declaratory and permanent injunctive relief, to prevent the State from enforcing the Act.

PARTIES

10. Petitioner PPH is a nonprofit corporation headquartered in Des Moines, Iowa. At its eight Iowa health centers, PPH provides a wide range of health care, including annual gynecological exams, cancer screenings, sexually transmitted infection testing and treatment, a range of birth control options including long-acting reversible contraception, gender affirming care, and medication and procedural abortions.

11. PPH provides procedural abortions at two Iowa health centers, in Des Moines and Iowa City, and medication abortions at five Iowa health centers, in Ames, Council Bluffs, Des Moines, Iowa City, and Sioux City. PPH provided over 3500 abortions in Iowa in 2021 and over 3300 abortions in Iowa in 2022. In the first half of 2023, PPH provided just under 1200 abortions in Iowa. PPH provides pre-viability abortions up to 20 weeks and 6 days LMP.

12. PPH sues on its own behalf, on behalf of its medical providers and other staff, and on behalf of its patients who will be adversely affected by the State's actions.

13. Petitioner Dr. Sarah Traxler is the Medical Director for PPH. Dr. Traxler is a board-certified obstetrician and gynecologist licensed to practice medicine in Iowa, in addition to Minnesota, South Dakota, North Dakota, and Maine. Dr. Traxler provides reproductive health care to PPH patients in Iowa, including medication and procedural abortions. Dr. Traxler sues on her own behalf and on behalf of her patients who will be adversely affected by the State's actions.

14. Petitioner EGC is a not-for-profit independent organization with one clinic location in Iowa City. EGC provides reproductive health care through all stages of life. Its services include annual gynecological exams; cancer screenings; sexually transmitted infection testing and treatment; a range of birth control options, including long-acting reversible contraception such as intrauterine devices; physical exams for men, transgender, and gender non-conforming people; and abortion services.

15. EGC provides medication and procedural abortions at its clinic in Iowa City. From October 2020 through September 2021, EGC provided 686 abortions; from October 2021 through September 2022, EGC provided 703 abortions. EGC provides pre-viability abortions up to 19 weeks and 6 days LMP.

16. EGC sues on its own behalf, on behalf of its medical providers and other staff, and on behalf of its patients who will be adversely affected by the State's actions.

17. Respondent Kim Reynolds is the Governor of Iowa, and as such is the chief executive for the State, responsible for ensuring the enforcement of the State's statutes. *See* Iowa Const. art. IV, §§ 1, 9. The Governor is sued in her official capacity.

18. Respondent Iowa Board of Medicine is a state agency as defined in the Iowa Administrative Procedures Act, Iowa Code § 17A.2(1). It is charged with administering the Act, *see* HF 732 § 2(5), as well as with disciplining individuals licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code § 148.1–14, including licensees who violate a state statute that “relates to the practice of medicine.” Iowa Code § 148.6(2)(b).

JURISDICTION AND VENUE

19. This action seeks a declaratory judgment and injunctive relief pursuant to Iowa Rules of Civil Procedure 1.1101–1.1109, 1.1501–1.1511, and the common law. This Court has jurisdiction over this matter pursuant to Iowa Code § 602.6101.

20. Venue is proper in this district pursuant to Iowa Code § 616.3(2) because part of the cause arose in Polk County and Respondent Iowa Board of Medicine's primary office is located in Polk County, as is the office of Respondent Governor Reynolds.

OPERATIVE FACTS

Prior Iowa Abortion Law

21. On May 4, 2018, Governor Reynolds signed Senate File 359 into law, which would have banned abortion as soon as embryonic or fetal cardiac activity could be detected by ultrasound, which can occur as early as six weeks LMP. *See* 2018 Senate File 359. The 2018 Six-Week Ban was set to take effect on July 1, 2018. *See* Iowa Code § 3.7(1). At that time, abortion was still legal in Iowa through approximately twenty-two weeks LMP. *See* Iowa Code § 146B.2(2)(a).

22. Before the 2018 Six-Week Ban could take effect, this Court entered a temporary injunction preventing the State from enforcing the ban, thereby allowing abortion to remain legal in Iowa through approximately twenty-two weeks LMP. *See* Ord. Entering Temp. Injunction, *Planned Parenthood of the Heartland*, No. EQCE83074 (June 4, 2018). This Court subsequently entered a permanent injunction against the 2018 Six-Week Ban. *See* Ruling on Mot. for Summ. J., *Planned Parenthood of the Heartland*, No. EQCE83074 (Jan. 22, 2019).

23. More than three years later, soon after the United States Supreme Court ruled in *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228 (2022), that the federal Constitution does not protect the right to an abortion, the State moved this Court for an order dissolving this Court's permanent injunction against the 2018 Six-Week Ban. *See* Mot. to Dissolve Perm. Injunction Issued January 22, 2019, *Planned Parenthood of the Heartland*, No. EQCE83074 (Aug. 11, 2022).

24. Following a hearing, this Court denied the State's motion to dissolve the permanent injunction against the 2018 Six-Week Ban, recognizing that the law was "a ban on nearly all abortions" and would violate the Iowa Constitution under the undue burden standard. *See* Ruling on Mot. to Dissolve Perm. Injunction Issued January 22, 2019, *Planned Parenthood of the*

Heartland, No. EQCE83074 (Dec. 12, 2022). The State then appealed this Court’s ruling to the Iowa Supreme Court.

25. On June 16, 2023, an evenly divided Supreme Court affirmed this Court’s ruling by operation of law, allowing the permanent injunction against the 2018 Six-Week Ban to remain in effect. *See Planned Parenthood of the Heartland, Inc.*, No. 22-2036 (June 16, 2023). Abortion has thus remained legal in Iowa through approximately twenty-two weeks LMP.

The Act

26. On July 5, 2023, less than three weeks after an evenly divided Iowa Supreme Court allowed this Court’s permanent injunction against the 2018 Six-Week Ban to remain in effect, Governor Reynolds issued a proclamation calling the Iowa General Assembly into a one-day special session on July 11 “for the sole and single purpose” of enacting a new ban on abortion. *See Ex. B.*

27. The Governor’s proclamation noted that the Supreme Court’s order had prevented the State from enforcing the 2018 Six-Week Ban, and asserted that “Iowans deserve to have their legislative body address the issue of abortion expeditiously and all unborn children deserve to have their lives protected by their government as the fetal heartbeat law did.” *Id.*

28. The General Assembly met in a one-day special session on July 11, 2023. In the span of a single day, the General Assembly introduced, debated, and passed the Act. Each chamber debated the Act for less than seven hours, and before debate on the Senate floor was complete, proponents of the bill forced a vote at around 11:00 p.m., in the dead of night.

29. Shortly before midnight on July 11, Governor Reynolds announced that she plans to sign the Act into law on Friday, July 14. *See Ex. C.*

30. The Act will take effect immediately upon Governor Reynolds’s signature. *See HF 732 § 3.*

31. Just like the 2018 Six-Week Ban, the Act bans abortions when there is a “detectable fetal heartbeat.” HF 732 § 2(2)(a). The Act defines a “fetal heartbeat” as “cardiac activity, the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.” *Id.* § 1(2). Because embryonic or fetal cardiac activity can be detected as early as six weeks LMP, the Act bans abortions starting at approximately six weeks LMP. *See* Traxler Aff. ¶ 13.

32. When a pregnant person seeks an abortion, the Act requires the abortion provider to perform an abdominal ultrasound to detect whether there is cardiac activity and to inform the patient in writing both (1) whether cardiac activity was detected; and (2) that if cardiac activity was detected, the patient cannot have an abortion. *See* HF 732 § 2(1)(a)–(b). The Act then requires the patient to sign a form acknowledging that they received this information. *See id.* § 2(1)(c). The Act also requires abortion providers to retain in the patient’s medical record documentation of the ultrasound, documentation of whether cardiac activity was detected, and the patient’s signed form. *See id.* § 2(3)(a)–(b).

33. The Act allows for only a few narrow exceptions under which either a provider need not test for cardiac activity, or a patient can have an abortion despite the detection of cardiac activity. First, an exception applies if the provider determines in their “reasonable medical judgment” that there is a “medical emergency,” which existing Iowa law defines as occurring either when (1) the patient’s “life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy, but not including psychological conditions, emotional conditions, familial conditions, or the woman’s age”; or (2) “when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function defined elsewhere.” *Id.* §§ 1(4), 2(2)(a); Iowa Code § 146A.1(6)(a).

34. Second, an exception applies if the pregnancy resulted from rape or incest *and* the

patient reports the rape or incest to law enforcement or to a “public or private health agency which may include a family physician.” HF 732 §§ 1(3)(a)–(b), 2(2)(a). To qualify for the exception, the rape must have been reported within 45 days; incest must have been reported within 140 days. *See id.* §§ 1(3)(a)–(b). This exception is no longer available once the pregnancy reaches a “postfertilization age” of “twenty or more weeks”—approximately twenty-two weeks LMP or later. *Id.* § 2(2)(b).

35. The Act uses the word “rape” without defining the term, even though “rape” is not a crime defined elsewhere in the Iowa Code, which instead uses the terms “sexual abuse” and “sexual assault.” Iowa Code §§ 709.1 *et seq.*, 915.40; *see also* Traxler Aff. ¶ 62; Affidavit of KellyMarie Z. Meek (“Meek Aff.”) ¶ 22. The Act also does not define the term “incest,” which is defined in the criminal code as a sex act with “an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew.” Iowa Code § 726.2. It is unclear whether this definition of “incest” includes, for example, a sex act with a stepsibling or stepparent. *See* Meek Aff. ¶ 21. Nor does the Act define the term “private health agency,” which is not defined elsewhere in the Iowa Code; the Act thus fails to provide sufficient clarity about the types of institutions or medical providers to which a patient needs to have reported rape or incest. *See* Traxler Aff. ¶ 63.

36. Third, an exception applies if the provider certifies that there is a “fetal abnormality” that is “incompatible with life” in their “reasonable medical judgment.” HF 732 §§ 1(3)(d), 2(2)(a). As with the exception for reported rape and incest, this fetal abnormality exception is no longer available once the pregnancy reaches approximately twenty-two weeks LMP. *Id.* § 2(2)(b).

37. The Act also lists as an exception “[a]ny spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.” *See id.* §§ 1(3)(c), 2(2)(a).

38. The Act provides that, after a pregnancy has reached twenty weeks post-

fertilization—approximately twenty-two weeks LMP—an abortion may be performed despite the detection of cardiac activity if “the abortion is necessary to preserve the life of an unborn child.” *See id.* § 2(2)(b).

39. The Act does not specify what penalties providers could face for a violation. It does, however, require the Iowa Board of Medicine to adopt rules to administer the Act. *See id.* § 2(5). The Board of Medicine has the authority to discipline providers for violating a state law, including by imposing civil penalties of up to ten thousand dollars and revoking their medical licenses. *See* Iowa Code §§ 148.6(1), (2)(c); Iowa Code §§ 272C.3(2).

Abortion in Iowa

Abortion Is Safe, Common, and Critical to Pregnant People’s Health & Welfare

40. Access to safe and legal abortions is critical to pregnant people’s health and welfare. Legal abortions are one of the safest procedures in modern medicine, and are far safer than childbirth at any stage in pregnancy. Abortions are also very common: approximately one in four women in this country will have an abortion by age forty-five, and this number does not account for the trans men, gender nonconforming people, and nonbinary people who also have abortions. *See* Traxler Aff. ¶ 22.

41. People decide to have abortions for a variety of reasons, including familial, medical, financial, and personal ones. Most people who seek abortions are already parents, and they may struggle with basic unmet needs for their families. Some people end a pregnancy because they conclude that it is not the right time in their lives to have a child or to add to their families. Others have an abusive partner or a partner with whom they do not wish to have children for other reasons. Some people have health complications during pregnancy that lead them to conclude that an abortion is the right choice for them; indeed, for some, abortion is medically indicated to protect their lives or health, including their reproductive health. Some do so because they receive

diagnoses of fetal abnormalities despite the pregnancy being wanted. In some cases, people are dealing with a substance use disorder and decide not to become parents or have additional children during that time in their lives. Some make that decision because they have become pregnant as a result of rape. Others do so because they choose not to have biological children. *See id.* ¶ 23; Meek Aff. ¶¶ 10–16.

42. Childbirth poses far greater health risks than abortion. Every pregnancy-related complication is more common among people having live births than among those having abortions. *See* Traxler Aff. ¶ 22.

43. The National Academies of Sciences, Engineering, and Medicine—a private nonprofit organization established by the United States Congress to provide objective advice to the nation on matters of science and technology—conducted a review of the existing high-quality research and concluded that abortion is safer than childbirth. *See id.* ¶ 49. The National Academies found that the national abortion-related mortality rate was only 0.7 deaths per 100,000 legal abortions, a rate more than twelve times lower than that for those who carried their pregnancies to term, which is 8.8 deaths per 100,000 live births. *See id.*

44. Those forced to carry an unwanted pregnancy to term are at increased risk of preterm birth and failure to bond with a newborn, and are less likely to escape poverty, less likely to be employed, less likely to escape domestic violence, and less likely to formulate and achieve educational, professional, and other life goals. Additionally, when pregnant people lack access to safe, legal abortion, some will attempt to self-induce an abortion, including in ways that can further jeopardize their health or life. *See id.* ¶ 58.

Most People Who Seek Abortions Do Not Know They Are Pregnant by Six Weeks LMP

45. In a typical pregnancy, embryonic or fetal cardiac activity can be detected by an ultrasound as early as six weeks LMP. The vast majority of patients who have an abortion in Iowa

have reached at least six weeks LMP by the time of the abortion.

46. As an increasing number of states have banned or severely restricted abortion in the aftermath of the U.S. Supreme Court’s ruling in *Dobbs*, patients have faced substantial obstacles in seeking care and have been forced to delay their abortions later into their pregnancies. *See id.* ¶ 36.

47. In 2022, more than eighty-eight percent of the abortions that PPH provided were for patients who had already reached six weeks LMP; and approximately ninety-two percent of the abortions that PPH provided during the first half of 2023 were for patients who had already reached six weeks LMP. *See id.* ¶ 20.

48. From October 2021 through September 2022, approximately ninety-four percent of the abortions that EGC provided were for patients who had already reached six weeks LMP. *See* Affidavit of Abbey Hardy-Fairbanks, M.D. (“Hardy-Fairbanks Aff.”) ¶ 16. During the following year, from October 2022 through May 2023, approximately ninety-nine percent of the abortions that EGC provided were for patients who had already reached six weeks LMP. *See id.*

49. There are many reasons why most pregnant people do not have an abortion until six weeks LMP or later. Many do not even know that they are pregnant by six weeks LMP, and even those who do often face substantial financial and logistical obstacles to having an abortion. *See* Traxler Aff. ¶ 16.

50. For a person with regular monthly periods who becomes pregnant, fertilization typically occurs two weeks after their last menstrual period (two weeks LMP). Another two weeks would pass before a person would miss their period, generally the first clear indication of a possible pregnancy—at this point, the pregnancy would have reached four weeks LMP. At-home pregnancy tests are not generally effective until at least four weeks LMP. *See id.* ¶ 26.

51. As a result, even a person with highly regular menstrual cycles of approximately

twenty-eight days who learns that they are pregnant at the earliest possible instance would have roughly two weeks to (1) decide whether to have an abortion; (2) secure an appointment at one of the few available health centers in Iowa that provide abortions, which do not provide abortions every day of the week; (3) take time off from work and arrange transportation, childcare, and care for other family members; (4) obtain state-mandated counseling materials; (5) wait twenty-four hours; and (5) go to a health center to have an abortion. *See id.* ¶ 29.

52. Moreover, although patients who have abortions demonstrate a strong level of certainty with respect to their decisions, the Act will force even those patients who successfully navigate the above hurdles to race to a health center to avoid missing the extremely narrow window when an abortion is available. Thus, under the Act some Iowans may be forced to rush into their decision out of fear that they will lose the opportunity altogether to have an abortion.

53. The above obstacles apply to pregnant people who learn very early that they are pregnant. But many patients do not know they are pregnant until six weeks LMP or later, especially patients who have irregular menstrual cycles, cycles longer than approximately twenty-eight days, or who experience bleeding during early pregnancy, a common occurrence that is frequently and easily mistaken for a period. Other patients may not develop or recognize symptoms of early pregnancy. Other factors, including younger age and use of hormonal contraceptives, can also result in delayed recognition of symptoms of early pregnancy. *See id.* ¶ 27–28.

54. Particularly for patients living in poverty or without insurance, travel-related and financial barriers also pose a barrier to having an abortion before six weeks LMP. With very narrow exceptions, Iowa bars coverage of abortion in its Medicaid program, *see id.* ¶ 31, forcing patients living in poverty or without private insurance to make difficult tradeoffs among other basic needs like food or rent to pay for their abortions. Many must seek financial assistance from extended family and friends or from local abortion funds to pay for care, a process that takes time.

Moreover, many patients must navigate other logistics, such as inflexible or unpredictable job hours and childcare needs, that may delay the time when they are able to have an abortion. *See id.* ¶ 32.

55. In addition to the medical and practical impediments to accessing an abortion, Iowa has also enacted numerous medically unnecessary statutory and regulatory requirements that must be met before a patient may have an abortion. For example, Iowa law requires PPH to ensure that patients have an ultrasound at least twenty-four hours before having an abortion. *See Iowa Code* § 146A.1(a)–(c). Patients must also have available, at least twenty-four hours before an abortion, certain state-mandated information designed to discourage them from having an abortion. *See id.* § 146A.1(d). As a result, a patient makes two trips to a health center before they can receive an abortion. Practically speaking, the effect of this twenty-four-hour delay law can last far longer than one day, which may push a patient past the time limit even if they discovered they are pregnant, decided to have an abortion, and scheduled an appointment prior to six weeks LMP. *See Traxler Aff.* ¶ 33.

56. Accessing abortions is even more difficult for minors. Minor patients without a history of pregnancy may be less likely to recognize early symptoms of pregnancy than older patients who have been pregnant before. Most of these patients cannot immediately obtain written parental authorization, which means that under Iowa law they cannot have an abortion until forty-eight hours after a parent has been notified or until they have obtained judicial authorization, neither of which can realistically happen before six weeks LMP. *See id.* ¶ 34.

Impact of the Act on Petitioners and Their Patients

The Act Has Decimated Access to Abortion in Iowa

57. By banning abortions at the earliest stages of pregnancy, the Act will decimate access to abortion in Iowa and thereby impose an undue burden on Petitioners' patients. The Act

is particularly devastating for lower-income Iowans, people of color, and rural Iowans, who already face inequities in access to health care.

58. The Act bans abortions starting at approximately six weeks LMP. At six weeks LMP, many people do not know that they are pregnant, and even those who do may not yet have decided to have an abortion and been able to make the necessary financial and logistical arrangements to have an abortion that early in pregnancy. The Act thus prohibits the vast majority of abortions in Iowa.

59. The vast majority of people in Iowa who have an abortion do so once their pregnancies have already reached six weeks LMP. As described above, approximately ninety-two percent of the abortions that PPH has provided in Iowa in 2023 were for patients who had already reached six weeks LMP, *see id.* ¶ 20, and approximately ninety-nine percent of the abortions that EGC provided between October 2022 and May 2023 were for patients who had already reached six weeks LMP, *see Hardy-Fairbanks Aff.* ¶ 16.

60. The Act's few limited exceptions will do little to help patients seeking an abortion in Iowa. The Act's rape and incest exceptions require patients to have reported the rape or incest to law enforcement or a health agency within limited time windows, a step that very few people who seek an abortion for a pregnancy resulting from rape or incest will have taken. Victims of rape and incest often do not report the incidents, whether due to their young age, fear of violence or retaliation by their assailant, or severe trauma and shame. *See Meek Aff.* ¶¶ 25–28. According to the U.S. Department of Justice, approximately seventy-eight percent of rapes and sexual assaults were not reported to the police in 2021. *See Traxler Aff.* ¶ 64; *Meek Aff.* ¶ 26. Moreover, the exception is no longer available once the pregnancy reaches approximately twenty-two weeks LMP. *See HF 732 § 2(2)(b)*. The vast majority of Iowans who seek an abortion for a pregnancy resulting from rape or incest thus will not be able to rely on these exceptions. *See Meek Aff.* ¶¶

20–29.

61. Similarly, the Act’s “medical emergency” exception will do little to help patients seeking an abortion in Iowa under dire health circumstances. The Act relies on a definition of “medical emergency” that excludes all psychological conditions, even conditions so severe that the patient is at an immediate risk of self-harm or suicide, even though mental health conditions are the leading underlying cause of twenty-three percent of pregnancy-related deaths. *See* HF 732 §§ 1(4), 2(2)(a); Iowa Code § 146A.1(6)(a); Traxler Aff. ¶ 66. And even for physical conditions, the Act uses vague definitions, placing providers in the untenable position of having to decide whether an exception applies while knowing that they could lose their license if the Board of Medicine disagrees with their conclusion. *See* HF 732 § 2(5); Iowa Code §§ 148.6(1), (2)(c); Iowa Code § 272C.3(2). Patients with rapidly worsening medical conditions may be forced to wait for care until a provider determines that their conditions become deadly or threaten substantial and irreversible impairment so as to meet the exception.

The Act Forces Pregnant Iowans to Leave the State or Carry Their Pregnancies to Term

62. If the Act goes into effect, the vast majority of Iowans who decide to have an abortion will either have to travel out of state or, if they do not have the resources to do so, carry an unwanted pregnancy to term.

63. Those who are forced to travel out of state to seek an abortion will face significant logistical and financial obstacles in doing so, causing substantial delays in their access to a critical form of health care. Research shows that legal barriers to abortion can delay, and in some cases altogether prevent, people from accessing that care. *See* Traxler Aff. ¶ 42.

64. Pregnant Iowans will be forced to take time off from work, arrange care for their children and other family members, and figure out how to travel to the nearest state where they can legally access an abortion, which may be hundreds of miles from their homes. Many will also

have to do so in secret to hide their decision from an abusive partner. They will also be forced to gather extra funds—in addition to the cost of the abortion itself—to pay for the lodging, gas, and food required to make these trips, cover the cost of care for their children and other family members, and account for the time off from work, forcing lower-income Iowans to make difficult choices between an abortion and rent, food, and other basic necessities. And because some nearby states such as Kansas and Nebraska require patients to make multiple trips to a health center to have an abortion, many Iowans will have to either make multiple trips to or have an extended stay in another state, further increasing the logistical and financial obstacles and causing additional delays to accessing care.

65. All of these logistical and financial obstacles will force pregnant Iowans to delay their abortions further into pregnancy, which can increase the risk of complications and prevent them from being able to access the abortion method that they feel most comfortable with. For instance, a patient might prefer to have a medication abortion instead of a procedural abortion because they feel more comfortable and safe undergoing the process in the privacy of their own homes, but if the patient is delayed in accessing care because they are forced to travel to another state, they may reach a point in gestation at which only procedural abortions are available. Similarly, a patient who might otherwise have been eligible for a procedural abortion by aspiration may instead have to undergo a dilation and evacuation procedural abortion if they are delayed in seeking care. And although abortion is very safe and is safer than childbirth at any stage in pregnancy, the risk of complications associated with an abortion increases as the pregnancy progresses, causing pregnant Iowans to face an increased risk of complications the longer their abortion is delayed.

66. For some pregnant Iowans, these obstacles will prove impossible to overcome. Some may choose to self-manage their abortions outside of the healthcare system, potentially

increasing the risks to their health. Others will be forced to carry their pregnancies to term against their will.

Iowans Forced to Carry Pregnancies to Term Will Face Risks of Death, Major Complications, and Social and Financial Hardships

67. Those who are forced to carry an unwanted pregnancy to term will be exposed to an increased risk of death and major complications. Even under ideal circumstances, pregnancy causes significant physiological changes that can affect a person's health and social circumstances both during the pregnancy and for years afterwards. Many people seek emergency care at least once during a pregnancy, and people with comorbidities (either preexisting or those that develop as a result of their pregnancy) are significantly more likely to need emergency care. *See id.* ¶ 45.

68. During pregnancy, even people without preexisting health conditions will experience significant physiological changes, including a dramatic increase in blood volume, faster heart rate, increased production of clotting factors, breathing changes, digestive complications, and a growing uterus, putting them at greater risk of blood clots, nausea, hypertensive disorders, anemia, and other complications. *See id.* ¶ 44.

69. Pregnancy can present even greater health risks to those with preexisting health conditions, such as hypertension and other cardiac diseases, diabetes, kidney disease, autoimmune disorders, obesity, asthma, and other pulmonary diseases. *See id.* ¶ 46.

70. Pregnancy can also lead to the development of new serious health conditions, such as hyperemesis gravidarum, preeclampsia, deep-vein thrombosis, and gestational diabetes. People who develop new conditions during pregnancy are at an even higher risk of developing the same conditions in subsequent pregnancies. *See id.*

71. Pregnancy may also induce or exacerbate mental health conditions. Those with a history of mental illness may experience a recurrence during pregnancy. Moreover, pregnant

people taking medication for a mental health condition may need to discontinue or modify their medication regimen to avoid risking harm to the fetus, increasing the likelihood that mental illness recurs both during and after pregnancy. These risks can be higher for patients with unintended pregnancies, who may face physical and emotional changes and risks that they did not choose to take on. Pregnant people with a history of mental health conditions also face a heightened risk of postpartum illness, which may go undiagnosed for months or even years. *See id.* ¶¶ 47, 52.

72. Some pregnant people also face an increased risk of intimate partner violence, with the severity sometimes escalating during or after pregnancy. Homicide is a leading cause of maternal mortality; the majority of these homicides are committed by an intimate partner. Moreover, if forced to carry to term, a person facing intimate partner violence may also find it more difficult to leave an abusive partner because of new financial, emotional, and legal ties with that partner. *See id.* ¶ 48.

73. Labor and childbirth are also significant medical events with risks of health complications and death, far greater than those for abortions. In some cases, labor must be induced, and labor can last hours or sometimes days and be tremendously painful. Even a pregnancy with no comorbidities or previous complications can suddenly become life-threatening during labor and delivery. For example, during labor, increased blood flow to the uterus places the patient at risk of hemorrhage and, in turn, death. Hemorrhage is the leading cause of severe maternal morbidity. Other unexpected adverse events include transfusion, a ruptured uterus, perineal laceration, and unexpected hysterectomy. The most severe perineal tears involve tearing between the vagina through the anal sphincter and into the rectum and must be surgically repaired, which can result in long-term urinary and fecal incontinence and sexual dysfunction. Moreover, vaginal delivery often leads to long-term internal injuries, such as bowel injury or injury to the pelvic floor, which can also lead to urinary incontinence, fecal incontinence, and pelvic organ prolapse. *See id.* ¶ 50.

74. Some people who are forced to carry an unwanted pregnancy to term may also need to undergo a cesarean delivery, an open abdominal surgery that requires hospitalization and entails a significant risk of complications such as hemorrhage, infection, venous thromboembolism (blood clots), and injury to internal organs. Cesarean deliveries can also create long-term risks, including an increased risk of placenta previa in later pregnancies (when the placenta covers the cervix, resulting in vaginal bleeding) and bowel or bladder injury in future deliveries. *See id.* ¶ 51.

75. Particularly for people with low incomes or who are facing economic hardship, pregnancy can have severe impacts on their and their families' financial security. Some side effects of pregnancy render patients unable to work, or unable to work the same number of hours that they otherwise would, sometimes resulting in job loss. And pregnancy-related health care and childbirth are some of the costliest hospital-based health services, particularly for complicated or at-risk pregnancies. Beyond childbirth, raising a child is expensive, due to both direct costs and lost wages. These costs can be particularly impactful for people who do not have partners or other support systems in place, such as single parents. *See id.* ¶ 55.

76. Even after childbirth, those who are forced to carry their pregnancies to term and their newborns will be at risk of negative health consequences, including reduced use of prenatal care, lower breastfeeding rates, and poor maternal and neonatal outcomes. When compared to those who are able to access abortions, women who seek but are denied an abortion are more likely to moderate their future goals and less likely to be able to exit abusive relationships. Their existing children are also more likely to suffer measurable reductions in achievement of child developmental milestones and an increased chance of living in poverty. Finally, as compared to women who received an abortion, women who are denied abortions are less likely to be employed full-time, more likely to be raising children alone, more likely to receive public assistance, and more likely to not have enough money to meet basic living needs. *See id.* ¶ 58.

CLAIMS FOR RELIEF

COUNT I – RIGHT TO DUE PROCESS

77. Petitioners hereby reaffirm and reallege each and every allegation made above as if set forth fully herein.

78. The Act violates the due process rights of patients seeking and obtaining abortions in the state of Iowa, as guaranteed by article I, section 9 of the Iowa Constitution, by banning the vast majority of abortions in Iowa.

COUNT II – INALIENABLE RIGHTS OF PERSONS

79. Petitioners hereby reaffirm and reallege each and every allegation made above as if set forth fully herein.

80. The Act violates the inalienable rights of persons, as guaranteed by article I, section 1 of the Iowa Constitution, by banning the vast majority of abortions in Iowa.

COUNT III – RIGHT TO EQUAL PROTECTION

81. Petitioners hereby reaffirm and reallege each and every allegation made above as if set forth fully herein.

82. The Act violates Petitioners’ and their patients’ rights to equal protection of the laws in the state of Iowa, as guaranteed by article I, sections 1 and 6 of the Iowa Constitution, by:

- (a) singling out abortion from all other medical procedures; and
- (b) discriminating against women on the basis of their sex and on the basis of gender stereotypes.

PRAYER FOR RELIEF:

DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

83. Petitioner hereby incorporates the allegations of all previous paragraphs as though those allegations were fully set forth herein.

84. This matter is appropriate for declaratory relief pursuant to Iowa Rules of Civil Procedure 1.1101–1.1109, and granting such relief, in conjunction with the supplemental injunctive relief Petitioners pray for, would terminate the legal dispute that gave rise to this Petition.

85. This matter is also appropriate for temporary injunctive relief pursuant to Iowa Rules of Civil Procedure 1.1501–1.1511, to take effect upon Governor Reynolds’s signing HF 732 on July 14, 2023. Absent temporary injunctive relief, Petitioners and their patients will continue to suffer irreparable injury for which there is no adequate remedy at law.

86. This matter is also appropriate for permanent injunctive relief pursuant to Iowa Rule of Civil Procedure 1.1106. Absent permanent injunctive relief, Petitioners and their patients will continue to suffer irreparable injury for which there is no adequate remedy at law.

WHEREFORE, Petitioners respectfully urge this Court to enter judgment as follows.

- (1) Declaring that:
HF 732 violates the Iowa Constitution;
- (2) Enjoining Respondents, upon Governor Reynolds’s signing HF 732 on July 14, 2023, from:
Enforcing HF 732;
- (3) For Petitioners’ costs incurred herein; and,
- (4) For such other and further relief as the Court deems just and proper.

Respectfully submitted,

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*Application for admission *pro hac vice* forthcoming