

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

PLANNED PARENTHOOD OF THE
HEARTLAND, INC., EMMA GOLDMAN
CLINIC, and JILL MEADOWS, M.D.,

Petitioners,

v.

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

Respondents.

Equity Case No. _____

AFFIDAVIT OF KERRI TRUE-FUNK IN
SUPPORT OF PETITIONERS' MOTION FOR
TEMPORARY INJUNCTIVE RELIEF

1. I am the Associate Director of the The Iowa Coalition Against Sexual Assault (IowaCASA), which is a statewide organization comprising 25 agencies that provided assistance to over 14,000 victims of sexual assault in Iowa FY 2017. IowaCASA focuses on improving the programs and services available to sexual assault survivors and supporting communities to prevent sexual violence before it occurs.

2. As Associate Director, I train and supervise professionals who work with survivors in numerous capacities—e.g. in shelters, in support groups, in legal assistance and advocacy programs, and in crisis management. I also am personally involved in some of IowaCASA's crisis interventions, such as when a survivor needs immediate assistance to escape a dangerous situation, emergency medical or criminal justice support, or seeks safe shelter where she can receive necessary protection and support.

3. Before this position, I was the executive director of a stand-alone rape crisis center in Illinois. In that role, I coordinated and supervised all of the services of the program,

including the rape crisis hotline, emergency and long-term advocacy, education and outreach, and counseling and therapeutic services. In prior positions in that organization, I provided medical and other advocacy, supportive counseling, and crisis intervention to survivors of sexual assault, rape, incest, child sexual abuse, and stalking. During my time with the program, I supported survivors who were pregnant as a result of the sexual and domestic violence they experienced.

4. I have a B.A. in Women's Studies from Western Illinois University, and an M.A. in Human Services with a concentration in Social Services Administration from the University of Illinois at Springfield. I am also certified in Iowa as a victim counselor and sexual abuse advocate, and in Illinois, I am trained as an advocate and an adult sexual assault counselor. My CV is attached hereto as Exhibit A.

5. I submit this affidavit in support of Petitioners' Motion for a Temporary Injunction to enjoin enforcement of Section 4 of Senate File 359 ("the Act") to be codified at Iowa Code § 146C.2 (2018), based on my 11 years of personal experience working directly with hundreds of survivors of sexual violence and supervising professionals working with thousands of survivors, as well as based on my education, training and familiarity with research in this area.

6. I understand that the Act bans abortion as early as six weeks of pregnancy (and sometimes earlier). I also understand that the Act excepts from this ban terminations of pregnancies that are "the result of a rape which is reported within forty-five days of the incident to a law enforcement agency or to a public or private health agency which may include a family physician" or "the result of incest which is reported within one hundred forty days of the incident to a law enforcement agency or to a public or private health agency which may include a family

physician.”¹

7. In my opinion, the Act will be devastating to the survivors I work with, despite these exceptions.

Access to Abortion is Essential to Survivors of Assault

8. Thousands of Iowa women suffer abuse, incest, or sexual assault each year. These women desperately need access to abortion.

9. Women in abusive situations are at heightened risk of unwanted pregnancy, either because their abusers do not care about helping them prevent these pregnancies or because their abusers are actively trying to impregnate them. Many are also living in poverty, and for that reason have less access to contraception.

10. Because of the association between abuse and unintended pregnancy, a significant percentage of women seeking an abortion are suffering and/or at risk for abuse. In one large-scale study of women seeking an abortion in Iowa, 13.8% reported having been subjected to physical or sexual abuse over the past year and 10.8% reported physical or sexual abuse by an intimate partner over the past year.² Notably, these percentages do not include women subjected to emotional abuse or women at risk for first-time physical or sexual abuse.

11. We commonly see situations in which an abusive partner uses pregnancy as a means of controlling a victim. For example, survivors of intimate partner violence or sexual abuse often report that their partner denies them access to birth control (e.g. by denying them the money or insurance information they would need to obtain contraception) or sabotages their birth

¹ S.F. 359, § 3 (2018) (to be codified at Iowa Code §146C.1).

² Audrey F. Saftlas, et al., Prevalence of Intimate Partner Violence Among an Abortion Clinic Population, 100 Am. J. Pub. Health 1412, 1413 (2010).

control. Some partners do so because they know that pregnancy, childbearing, and parenting will be physically taxing and will create financial, emotional, and practical dependencies, as well as legal ties, that will make it harder or impossible for the victim to leave them. Research indicates that over 8% of women in the general population have experienced birth control sabotage or pregnancy promotion.³ Among the more relevant population of women at family planning clinics, 19% have experienced pregnancy coercion.⁴

12. By the same token, we see victims and survivors who are desperate to terminate their pregnancy so that they, and any children they have, can escape their situation and gain independence from their abuser. Indeed, research indicates that victims who manage to terminate their pregnancy *are* more likely to escape their situation (and less likely to suffer continuing physical violence) than victims who seek to terminate their pregnancy but are unable to do so.⁵ I have seen this in my work as well—I have seen victims and survivors who were forced to stay with their abusers because they were raising small children and could not do so without their financial assistance, and I have seen survivors for whom ending their pregnancy allowed them (and their children) to escape and become independent from their abuser.

13. We also see victims who are desperate to terminate a pregnancy because of the traumatic circumstances, such as rape, in which that pregnancy is occurring. The physical aspects of pregnancy, including the sense of losing control of one's body, can be particularly traumatic

³ M.C. Black et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report at 48 (2011).

⁴ Elizabeth Miller et al., Pregnancy Coercion, Intimate Partner Violence, and Unintended Pregnancy, 81 *Contraception* 316, 318–319 (2010).

⁵ Sarah Roberts, et al., Risk of violence from the man involved in the pregnancy after receiving or being denied an abortion, 12 *BMC Med* 144 (2014).

to women who are otherwise not in control of their bodies or their lives. I have seen situations where such pregnancies trigger flashbacks, dissociative episodes, and other symptoms of re-traumatization.

14. This can be the case even for women who are not certain their pregnancy is the result of rape or incest. For example, it is not uncommon for an incest victim to be having consensual, non-incestuous sex in the same time-frame. If she becomes pregnant, even the possibility that the pregnancy is the result of incest may be particularly traumatic for her and may prompt her to seek an abortion. Similarly, a survivor of rape may not know whether her pregnancy is the result of that rape or of consensual sex she had with a spouse or other partner. In that situation, it is not uncommon for that woman to experience that pregnancy as traumatic because of the possibility that it stems from the rape, and to seek to terminate that pregnancy, even if she otherwise would be happy to have a child.

15. Additionally, many victims of abuse or sexual assault have health reasons for seeking an abortion. There is a strong association between intimate partner violence, incest, and mental health problems, and women may feel they are not healthy enough to parent a child. Or they may need psychiatric medications that are incompatible with pregnancy. I have seen victims seek an abortion because they were taking psychiatric medications that would be dangerous to a pregnancy. I am concerned that the Act will place these victims at particular risk because it could force them to discontinue medications that are critical to their health, safety and welfare.

16. It is already hard for victims of intimate partner violence or incest to access abortion care in many instances. In particular, it can be difficult if not impossible for victims to escape their partner's physical, emotional, and financial control long enough to access an abortion, often secretly. In cases where they have been physically isolated from the community,

they may not be able to leave their homes to seek for routine medical care in the hours or days directly following the assault, let alone later have access to transportation and financial means to access other follow-up services or abortion providers.

17. Even when survivors are able to access reproductive care, the process of finding a way to do so can delay them substantially. For example, one of the survivors I worked with was unable to access emergency contraception in time after her partner raped her because he worked only intermittently and she had to wait for him to leave the house for a construction job before she could travel to a hospital or pharmacy without his knowledge. (Fortunately, that particular woman did not become pregnant.) Thus, even if some women in Iowa might be able to seek an abortion before six weeks of pregnancy, I have difficulty imagining that this would be possible for the women we work with.

18. I have seen women unable to access a medically-supervised abortion, and have seen their desperation in that situation. For example, one woman I worked with as an advocate was pregnant from rape while struggling with mental health problems; the pregnancy, and the circumstances surrounding it, aggravated her mental health problems to the point where she became actively suicidal, physically self-induced a miscarriage, and needed emergency in-hospital care.

19. These are some of the reasons why access to abortion is critical for the hundreds of Iowa women each year who face an unwanted pregnancy while also struggling with past abuse or assault or ongoing intimate partner violence.

The Act's Exceptions Will Not Protect Victims

20. As I noted at the outset, the Act excepts certain victims of rape or incest from its general prohibition on abortion. However, many of the survivors we work with would not fall

under those exceptions.

21. Iowa law only considers as “incest” sex between blood-relatives. Thus, it is unclear whether the Act’s incest exceptions would protect adolescents who became pregnant from incest perpetrated by a step-parent or step-brother, which is a common form of abuse that we see.

22. Similarly, the Act excepts situations involving a reported “rape,” but does not define that term. Nor is the term defined under Iowa law, which I am familiar with as I routinely work with lawyers providing assistance to survivors. Although a woman could report instances of various types and degrees of “sexual abuse” to law enforcement, she could not report an incident that would be classified as “rape” under criminal law because no such classification exists.

23. Moreover, individuals disagree about what constitutes rape (or, for that matter, sexual abuse). For example, in situations involving intimate partner violence, an abusive partner might set expectations of sex after resolution of a violent episode or create a general level of fear in which a woman might be subjected to sex that she did not want but was not be in a position to resist. My colleagues and I would certainly consider such sex to be rape, but in my experience law enforcement officials and others could well disagree. I would anticipate similar disagreement over incidents in which an authority figure, such as a counselor, exploits that position to obtain sex from someone in a vulnerable state and/or position. Thus the Act does not provide guidance to abortion providers as to when they can provide an abortion under the rape exception, nor does it clearly cover all situations where a woman may face an unwanted pregnancy that is the result of unwanted or coerced sex.

24. Even in situations where there could be no disagreement that a victim suffered

rape or incest, there would be numerous barriers to a provider applying one of the Act's exceptions.

25. Most victims of incest do *not* report the abuse, because they fear their abuser may harm them physically, because they feel guilty or ashamed about the abuse, because they fear they will not be believed, and/or because they are afraid to break up their family.⁶

26. Rape is also underreported for similar reasons, particularly in situations where the perpetrator is a spouse or partner. A victim may fear retaliation, may fear loss of that partner's love or support, or may fear the repercussions for her family. She may feel partly responsible for the rape; that is a common dynamic in an abusive relationship. Or she may be so far under her partner's psychological control that she has not processed an episode of rape, however traumatic and/or violent, *as* rape.

27. For victims of rape or incest, another barrier to reporting is that reporting, and describing, abuse can itself be re-traumatizing because it takes them back mentally to the time of the abuse. Victims of abuse often actively *avoid* situations, such as reporting, that will have this effect, because they know and fear how painful that experience will be. I have seen this again and again in my work. Many victims delay reporting or avoid it altogether to avoid retraumatization. Under the Act, they will find themselves unable to access an abortion, however traumatic or disastrous it will be for them to continue their pregnancy. And this is especially so given the very short—forty-five days—restriction on the time within which a rape must be reported to qualify for an exception under the Act.

⁶ Maria Sauzier, Disclosure of Child Sexual Abuse: For Better or For Worse, 12 Psychol. Clinics of N. Am. 455, 460–61 (1989); Goodman-Brown, et al., Why Children Tell: A Model of Children's Disclosure of Sexual Abuse, 27 Child Abuse & Neglect 525, 535–37 (2003).

28. Moreover, as I described above, a victim often may not know whether her pregnancy is the result of rape or incest or a consensual relationship. If she does not know, it appears to me that her physician cannot apply the Act's exception.

29. I also anticipate that the Act's exceptions will be particularly hard for undocumented immigrants and their families to access. These individuals reasonably fear that, if they contact any law enforcement officials, they or their families might be placed in detention and removal proceedings. I know from my work that this fear is widespread in Iowa, and is a huge barrier to victims' reporting abuse.

Signed this 11th day of May 2018.



Kerri True-Funk




Kerri R. True-Funk

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Professional Experience

Associate Director

Iowa Coalition Against Sexual Assault

2015-Present

Des Moines, IA

- Implement trauma informed organizational policies and procedures manual to ensure mission driven fulfillment of agency operations.
- Supervision of 14 staff positions representing over \$1.25 million annually of state and federal grant funded programming.
- Supervision and program coordination of pro bono civil and administrative direct legal representation to survivors in secondary and post-secondary educational settings.
- Serve as agency spokesperson and content area expert with local and statewide media.
- Primary grant author for statewide programming, including securing a 60% increase in OVW Legal Assistance to Victims funding.
- Provide oversight of pass through funding for primary prevention and rural sexual assault response team coordination to local sexual assault programs.

Executive Director

Rape Advocacy, Counseling, & Education Services

2009–2015

Urbana, IL

- Management of 24-hour crisis response for four county service area, including services R1 land grant institution.
- Supervision agency staff members providing advocacy, therapy, and prevention service.
- Primary grant writer and fiscal manager for agency, increasing budget from \$290,000 to \$450,000 and adding three new full-time staff positions.

Program Director

Rape Crisis Services, A Woman's Fund

2008–2009

Urbana, IL

- Provided supervision of core programs, including coordination of rape crisis hotline, emergency advocacy services, & supervision of professional staff. Grant writer and reporter for rape crisis program.

Legal Advocate

Rape Crisis Services, A Woman's Fund

2007–2008

Urbana, IL

Outpatient Case Manager

Piatt County Mental Health Center

2006 - 2007

Monticello, IL

Education

Masters of Arts

University of Illinois at Springfield

Major: Human Services

Concentration: Social Service Administration

Capstone: "Trauma That Is Not Their Own: Vicarious Trauma and Rape Crisis Center Staff"

Bachelors of Arts

Western Illinois University

Major: Women's Studies

Minor: Sociology

Awards

Congressional Victims' Rights Caucus

Lois Haight Award of Excellence and Innovation, 2015

Professional Affiliations & Presentations

Iowa Sexual Assault Kit Initiative

Member, Statewide Multi-Disciplinary Team

Iowa Coalition Against Sexual Assault

Trainer, Iowa Victim Counselor Certification

Adult Survivors of Child Sexual Abuse

Nonoffending Parents

Presenter, Continuing Education for Certified Sexual Assault Advocates

"Managing from the Middle: Supervision of Sexual Assault Advocates"

"Don't Come Around Here No More: Advocacy Considerations for Sexual Assault Protective Orders"

National Sexual Assault Conference

"Illinois Imagines: Changing Systems, Changing Lives" Co-Presenter 2012

"Trauma That Is Not Their Own: Vicarious Trauma & Rape Crisis Center Staff" Presenter 2015

Midwest Organization for Human Services Conference

"Trauma That is Not Their Own: Vicarious Trauma & Rape Crisis Center Staff" Presenter 2016

Illinois Coalition Against Sexual Assault

Treasurer, Governing Body, 2010 to 2013

Chair, Finance Committee, 2013 to 2015

Member, Illinois Imagines Statewide Public Policy Committee
Co-Chair, Illinois Imagines Champaign County Team
Trainer, ICASA Statewide Conference

"Will They Stay or Will They Go?: Rape Crisis Center Staff Retention"
"Management's Responsibility for Self-Care"

RAD Systems International Conference

"Making RAD Accessible: Teaching Self Defense to Women with Disabilities" Presenter 2013
"When It Hurts to Teach: Responding to Disclosures from Our Students" Presenter 2014

Professional Development & Certifications

Iowa Coalition Against Sexual Assault

Certified Victim Counselor
Certified Sexual Abuse Advocate

National Sexual Assault Coalition Resource Sharing Project

Complex Institutional Advocacy Roundtable
Sexual Assault Demonstration Initiative Data Collection Roundtable
Dismantling Racism for Sexual Assault Coalition Staff
Investment and Divestment Peer Sharing Roundtable

Movement to End Violence

Midwest Movement Strategies Training

Illinois Coalition Against Sexual Assault

40-hour Advocate Crisis Intervention Trained
20-hour Adult Counselor Trained

Rape Aggression Defense Basic Physical Defense Instructor Training

Instructor Certification of Women's Basic Self Defense Course

radKIDS Inc. Personal Empowerment Safety Education

Instructor Certification Course

National Sexual Assault Conference

2011, 2012, 2013, 2015, 2016