

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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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.

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Equity Case No. \_\_\_\_\_

MOTION FOR TEMPORARY  
INJUNCTIVE RELIEF

COME NOW Petitioners, Planned Parenthood of the Heartland, Inc. (“PPH”), the Emma Goldman Clinic (“EGC”) and Jill Meadows, M.D., and respectfully move this court for a grant of temporary injunctive relief pursuant to Iowa Rule of Civil Procedure 1.1502, on an immediate and expedited basis, and state:

1. Respondent Governor Reynolds signed into law Sections 3 and 4 of Senate File 359 (the “Act”), to be codified at Iowa Code § 146C.1–2 (2018), on May 4, 2018. See Ex. 1. The bill has an effective date of July 1, 2018. Absent expedited, temporary relief prior to July 1, 2018, nearly all women seeking abortion in the state of Iowa will be unconstitutionally banned from accessing abortion due to the Act, for which no adequate legal remedy exists.
2. The Act bans abortion from the moment embryonic cardiac tones are detectable by ultrasound, which occurs in the earliest weeks of pregnancy, before many

- women even know that they are pregnant. Typically, this occurs as early as six weeks of pregnancy (and sometimes earlier), measured from the last menstrual period (lmp).
3. In practical effect, this would make it impossible for virtually all women to access abortion in Iowa.
  4. This harm is compounded by Iowa's (currently enjoined) 72-hour mandatory delay law, which causes delays to patients of *at least* a week, delaying those patients who may learn they are pregnant prior to the detection of fetal cardiac tones until they can no longer legally obtain the procedure. Aff. of Jill Meadows, M.D. ("Meadows Aff.") ¶ 12, attached hereto as Ex. 2.
  5. Any physician who violates the Act is subject to discipline by the Board of Medicine, including loss of licensure. See S.F. 359, § 4(5) (2018) (to be codified at Iowa Code § 146C.2(5)); Iowa Code § 148.6(2)(c).
  6. If the ban takes effect, those Iowa women who can scrape together resources will travel out of state to obtain an abortion; others will turn to dangerous attempts to self-induce abortion; and many more will be forced to carry an unwanted pregnancy to term. Meadows Aff. ¶¶ 2, 26–27.
  7. The Act's few narrow or entirely undefined exceptions fail to protect those women who require abortions to protect their health, who are victims of sexual and intimate partner violence, are victims of incest, or whose pregnancies are diagnosed with a severe fetal anomaly. Meadows Aff. ¶ 21–26; Aff. of Kerri True-Funk ("True-Funk Aff.") passim, attached hereto as Ex. 3.
  8. This is an all-out abortion ban—the most restrictive in the country, and is

unquestionably a violation of the rights of women under the Iowa Constitution to bodily integrity, decisional autonomy, and women's equality.

9. The number of women harmed by this law is overwhelming: in 2017, Planned Parenthood of the Heartland provided over 2300 abortions; the Emma Goldman Clinic provided over 600 abortions. Meadows Aff. ¶ 5; Affidavit of Abbey Hardy-Fairbanks, M.D. ¶ 4, attached hereto as Ex. 4.
10. The Iowa Supreme Court has recognized that abortion is a right protected under the Iowa Constitution, and that it warrants protection at least to the same degree as under the Federal Constitution. Planned Parenthood of the Heartland v. Iowa Bd. of Med. (“PPH I”), 865 N.W.2d 252, 263, 269 (Iowa 2015) (striking down under the Iowa Constitution an agency rule restricting the use of telemedicine to provide medication abortion). Federal precedent could not be more clear or unanimous that, before viability, the state may not prevent a woman from ending an unwanted pregnancy. *See, e.g., Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292 (2016); Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833 (1992); MKB Mgmt. Corp. v. Stenehjem, 795 F.3d 768 (8th Cir. 2015), cert denied, 136 S. Ct. 981 (2016) (striking down 6 week ban); Edwards v. Beck, 786 F.3d 1113 (8th Cir. 2015), cert. denied, 136 S. Ct. 895 (2016) (striking down 12 week ban); Isaacson v Horne, 716 F.3d 1213 (9th Cir. 2013), cert. denied, 134 S. Ct. 905 (2014) (striking down 20 week ban); Jane L. v. Bangerter, 102 F.3d 1112 (10th Cir. 1996), cert denied, 117 S. Ct. 2453 (1997) (striking down 20-week ban); TRO, Jackson Women's Health Org. v. Currier, No. 3:18-cv-00171-CWR-FKB, 2018 WL 1567867 (S.D. Miss. Mar. 20, 2018) (striking down 15 week ban).

11. This right is also critical to women's health, which is why numerous medical and health organizations, such as the American College of Obstetricians and Gynecologists, the American Medical Association, the American Academy of Family Physicians, the American Osteopathic Association, the American Academy of Pediatrics, and the American Psychiatric Association, have affirmed that safe and legal abortion is a public health imperative. Meadows Aff. ¶ 16.
12. Women forced to carry an unwanted pregnancy to term face increased risks of death and major complications from childbirth, such as hemorrhage, infection, preeclampsia and eclampsia, embolism, and trauma to the genital tract, cervical laceration, anemia, hypertensive disorder, pelvic and perineal trauma. Meadows Aff. ¶ 17. Cesarean delivery, which is common in childbirth, is a major invasive surgical operation and associated risks include injury to surrounding organs (particularly bladder and bowel), hemorrhage, and infection, in addition to the risks associated with anesthesia. Meadows Aff. ¶ 18.
13. An estimated 75 percent of abortion patients are poor or low income. Meadows Aff. ¶ 14. The medical risks associated with pregnancy and childbirth are higher for women living in poverty. Meadows Aff. ¶ 19. They may also be higher for women living in rural and areas, where there are fewer medical providers. Id. Woman forced to carry to term, and their newborns, also are at risk of other negative health consequences, including lower breastfeeding rates, and poor maternal and neonatal outcomes. Id. 18. Women forced to carry an unwanted pregnancy to term also may find it harder to bring themselves and their family out of poverty. Meadows Aff. ¶ 20.

14. Temporary injunctive relief per Iowa Rule of Civil Procedure 1.1502 is appropriate when necessary “to maintain the status quo of the parties prior to final judgment and to protect the subject of the litigation.” Kleman v. Charles City Police Dep’t, 373 N.W.2d 90, 95 (Iowa 1985). Such relief is appropriate “when the petition, supported by affidavit, shows the plaintiff is entitled to relief which includes restraining the commission or continuance of some act which would greatly or irreparably injure the plaintiff.” Iowa R. Civ. P. 1.1502(1). Temporary injunctive relief is appropriate when a plaintiff is likely to succeed on the merits of her claim and is at risk of irreparable harm absent immediate judicial intervention, Max 100 L.C. v. Iowa Realty Co., 621 N.W.2d 178, 181 (Iowa 2001).
15. In the two most recent abortion rights cases before it, involving abortion restrictions far less extreme than the one at issue here (though still unconstitutional), the Iowa Supreme Court determined that a temporary injunction was appropriate. See Order, PPH I, 865 N.W.2d 252 (Iowa 2015) (No. 14-1415) (granting temporary injunction to stay enforcement of challenged statute); Order, Planned Parenthood of the Heartland, Inc. v. Reynolds (“PPH II”), No. 17-1579 (Iowa Oct. 23, 2017) (same).
16. Like the telemedicine abortion ban recently struck down by the Iowa Supreme Court in PPH I, the Act, by banning abortion outright after embryonic cardiac activity is detectable, “places an undue burden on a woman’s right to terminate her pregnancy,” 865 N.W.2d at 269.
17. As explained more fully in Petitioners’ Brief in Support of this Motion for

Temporary Injunctive Relief and attached Affidavits, filed herewith, Petitioners are likely to succeed in their claims that the Act violates their patients' rights to due process and to equal protection under the Iowa Constitution.

18. For the reasons set forth above, and incorporating all the arguments set forth in their concurrently filed Brief in Support of Motion for Temporary Injunctive Relief and attached Affidavits, Petitioners are entitled to the preliminary relief they seek as necessary to protect the legal rights of their patients, as well as their patients' immediate health and safety, while this case proceeds toward final resolution.

**WHEREFORE**, Petitioners pray this Court temporarily enjoin Respondents from enforcing the Act's mandatory delay and additional trip requirements during the pendency of this case on the merits.

Respectfully submitted,

/s/ Rita Bettis  
RITA BETTIS (AT0011558)  
American Civil Liberties Union of Iowa Foundation  
505 Fifth Ave., Ste. 808  
Des Moines, IA 50309-2317  
Phone: (515)243-3988  
Fax: (515)243-8506  
rita.bettis@aclu-ia.org

/s/ Alice Clapman  
ALICE CLAPMAN\*  
Planned Parenthood Federation of America  
1110 Vermont Ave., N.W., Ste. 300  
Washington, D.C. 20005  
Phone: (202) 973-4862  
alice.clapman@ppfa.org

/s/ Caitlin Slessor

CAITLIN SLESSOR (AT0007242)  
SHUTTLEWORTH & INGERSOLL, PLC  
115 3RD St. SE Ste. 500 PO Box 2107  
Cedar Rapids, Iowa 52406-2107  
Phone: (319) 365-9461  
Fax (319) 365-8443  
Email: CLS@shuttleworthlaw.com

/s/ Samuel E. Jones

SAMUEL E. JONES (AT0009821)  
SHUTTLEWORTH & INGERSOLL, PLC  
115 3RD St. SE Ste. 500; PO Box 2107  
Cedar Rapids, Iowa 52406-2107  
Phone: (319) 365-9461  
Fax (319) 365-8443  
Email: SEJ@shuttleworthlaw.com

**ATTORNEYS FOR PETITIONERS**

\*Application for admission *pro hac vice* forthcoming