

IN THE CIRCUIT COURT OF ST. LOUIS CITY  
STATE OF MISSOURI

THE REVEREND TRACI BLACKMON; THE )  
REVEREND BARBARA PHIFER; MAHARAT )  
RORI PICKER NEISS; THE REVEREND )  
MOLLY HOUSH GORDON; THE RIGHT )  
REVEREND DEON K. JOHNSON, )  
ELEVENTH BISHOP OF THE EPISCOPAL )  
DIOCESE OF MISSOURI; RABBI JAMES )  
BENNETT; THE REVEREND HOLLY )  
McKISSICK; THE REVEREND KRISTA )  
TAVES; THE REVEREND CYNTHIA S. )  
BUMB; RABBI SUSAN TALVE; RABBI )  
DOUGLAS ALPERT; THE REVEREND )  
JANICE BARNES; and RABBI ANDREA )  
GOLDSTEIN )

*Plaintiffs,*

v.

STATE OF MISSOURI

SERVE: Missouri Attorney General’s Office )  
Supreme Court Building )  
207 West High St. )  
Jefferson City, Missouri 65102; )

MICHAEL L. PARSON, in his official capacity )  
as Governor of the State of Missouri )

SERVE: State of Missouri Governor’s Office )  
201 W. Capitol Ave. )  
Jefferson City, Missouri 65101; )

ANDREW BAILEY, in his official capacity as )  
Attorney General of the State of Missouri )

SERVE: Missouri Attorney General’s Office )  
Supreme Court Building )  
207 West High St. )  
Jefferson City, Missouri 65102; )

THE PROSECUTING ATTORNEYS FOR )  
BOONE, GREENE, JACKSON, JASPER, and )

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

ST. CHARLES COUNTIES, and THE CIRCUIT )  
ATTORNEY FOR THE CITY OF ST. LOUIS, in )  
their official capacity as Prosecuting and Circuit )  
Attorneys, and on behalf of all Missouri )  
Prosecuting and Circuit Attorneys )

SERVE: )

Prosecuting Attorney for Boone County )  
705 E. Walnut St. )  
Columbia, MO 65201 )

Prosecuting Attorney for Greene County )  
1010 N. Boonville Ave. )  
Springfield, MO 65802 )

Prosecuting Attorney for Jackson County )  
415 E. 12th St., 11th Floor )  
Kansas City, MO 64106 )

Prosecuting Attorney for Jasper County )  
601 S. Pearl, Room 100 )  
Joplin, MO 64801 )

Prosecuting Attorney for St. Charles County )  
300 N. Second St., Suite 601 )  
St. Charles, MO 63301 )

Circuit Attorney for the )  
City of St. Louis's Office )  
1114 Market St. Room 401 )  
St. Louis, Missouri 63101; )

MARC K. TAORMINA, in his official capacity )  
as President of the Missouri State Board of )  
Registration for the Healing Arts; NAVEED )  
RAZZAQUE, in his official capacity as Secretary )  
of the Missouri State Board of Registration for )  
the Healing Arts; JEFFREY D. CARTER, )  
JAMES A. DIRENNA, JEFFREY S. GLASER, )  
JADE D. JAMES-HALBERT, KATHERINE J. )  
MATHEWS, DAVID E. TANNEHILL, in their )  
official capacities as Members of the Missouri )  
State Board of Registration for the Healing Arts )

SERVE: Missouri State Board of Registration for )  
the Healing Arts )  
Division of Professional Registration )  
3605 Missouri Boulevard )  
Jefferson City, Missouri 65102; and )  
)  
PAULA F. NICKELSON, in her official capacity )  
as Acting Director of the Department of Health & )  
Senior Services of the State of Missouri )  
)  
SERVE: Missouri Department of Health and )  
Senior Services )  
912 Wildwood )  
Jefferson City, Missouri 65102-0570, )  
)  
*Defendants.* )  
)  

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## PETITION FOR INJUNCTIVE AND DECLARATORY RELIEF

### INTRODUCTION

1. The people of Missouri have the absolute right to live free from the religious dictates of others. The Missouri Constitution protects that right by ensuring a strict separation of church and state. But this fundamental guarantee of religious freedom for all is under attack: In a years-long crusade against abortion access, state officials have weaponized their religious beliefs to control the bodies and deny the autonomy of women and all who can become pregnant, jeopardizing their health, lives, and futures.

2. By early 2019, state officials' imposition of increasingly restrictive, medically unnecessary regulations on abortion providers had left the entire state of Missouri with only one abortion clinic. While enacted under the pretext of protecting Missouri women, these restrictions constituted thinly veiled efforts to enshrine in law state officials' particular religious beliefs against abortion. Among myriad other restrictions, legislation enacted in 2014 required individuals seeking abortion care to wait 72 hours after receiving state-mandated information before obtaining care, H.B. 1307, codified at §§ 188.027, .039, RSMo (the "72-Hour Delay"), and legislation enacted in 2017 (i) mandated that the same physician who provides the abortion care must provide this state-mandated information S.B. 5 (2d. special sess. 2017), codified at § 188.027(5), RSMo (the "Same-Physician Requirement"); (ii) instituted onerous procedural requirements on the provision of medication abortion, S.B. 5, codified at § 188.021(2), (3), RSMo (the "Medication Abortion Restrictions"); and (iii) created "concurrent original jurisdiction" for the Attorney General to "commence actions for a violation of any provision of [chapter 188], for a violation of any state law on the use of public funds for an abortion, or for a violation of any state law which regulates an abortion facility or a person who performs or

induces an abortion” without participation of the prosecuting or circuit attorney for the jurisdiction, S.B. 5, codified at § 188.075(3), RSMo (the “Concurrent Original Jurisdiction Provision”). The cumulative result of these and other restrictions was to radically burden and curtail abortion access in the state, particularly for women of color, people with low incomes, people living in rural areas, young people, and others already facing systemic barriers to care.

3. These attacks on abortion access reached their nadir in 2019, when Governor Parson signed into law House Bill No. 126. Legislators who sponsored and pressed for this bill did so expressly in the name and service of a particular religious view that many Missourians and their faith communities do not share. They openly invoked their personal religious beliefs as the reason for the law, enacting in the statute the religious views that “Almighty God is the author of life” and that “the life of an individual human being begins at conception . . . .” §§ 188.010, .026, RSMo.

4. The United States Supreme Court’s decisions in *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992) were the law of the land when H.B. 126 was enacted, but the legislation included a “trigger” provision banning all abortions in the state in the event that *Roe* was overturned. § 188.017, RSMo (the “Total Abortion Ban”). It also included a cascading series of 8-week, 14-week, 18-week, and 20-week pre-viability abortion bans that would take effect if the former were enjoined, §§ 188.056, .057, .058, .375, RSMo (collectively, the “Gestational Age Bans”), and a ban on

particular reasons for obtaining abortion care, § 188.038, RSMo (the “Reason Ban”), each of which facially violated *Roe* and *Casey*.<sup>1</sup>

5. Mere hours after the U.S. Supreme Court overturned *Roe* and *Casey* in *Dobbs v. Jackson Women’s Health Organization*, 142 S. Ct. 2228 (2022), Missouri’s then-Attorney General, Eric Schmitt, issued an Opinion Letter and Governor Michael Parson issued a proclamation stating that the Total Abortion Ban went immediately into effect and would be enforced. As a result, while the regulatory scheme existing before *Dobbs* had already severely constrained operations at the sole remaining licensed abortion clinic in the State, that clinic was forced to cease to providing abortion care entirely.

6. As a result, Missourians who seek abortions must now travel across state lines to obtain this basic reproductive health care, unless they meet the statute’s narrow definition of a “medical emergency” and are able to find a hospital willing to risk the Bans’ draconian criminal and civil penalties.<sup>2</sup> Already, reports have surfaced of individuals being denied care in pregnancy-related emergencies, including Mylissa Farmer, a Missouri resident who was denied emergency abortion care from a Missouri hospital when her water broke at nearly 18 weeks of

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<sup>1</sup> The Gestational Age Bans and part of the Reason Ban were preliminarily enjoined in earlier litigation, but those injunctions were then vacated. See *Reprod. Health Servs. of Planned Parenthood of the St. Louis Region, Inc. v. Parson*, 1 F.4th 552 (8th Cir. 2021), reh’g en banc granted, opinion vacated (July 13, 2021), cert. denied sub nom. Schmitt, No. 21-3, 2021 WL 4509073 (U.S. Oct. 4, 2021).

<sup>2</sup> Because the “medical emergency” provision is an affirmative defense, those who provide this care risk criminal investigation and prosecution even if they ultimately succeed on the defense in court. §§ 188.017(3), 188.056(2), .057(2), .058(2), .375(4), RSMo. If they do not succeed, they face five to fifteen years of imprisonment and loss of their professional licenses and livelihoods. See §§ 188.017(2), 188.056(1), .057(1), .058(1), .375(3), 558.011(1)(2), RSMo.

pregnancy.<sup>3</sup> Missourians without the financial means, ability to take time off work or school, child care, and transportation necessary to travel out of state will be forced to carry pregnancies in a state with a maternal-mortality rate that is abysmal—particularly for Black women.

7. Consistent with H.B. 126’s enshrinement of religious principles in the bill’s text, the legislative sponsors and other supporters of H.B. 126 repeatedly emphasized their religious intent in enacting the legislation. For example, the bill’s lead sponsor, Representative Nick Schroer, explained that “as a Catholic I do believe life begins at conception and that is built into our legislative findings.” One of the bill’s co-sponsors, Representative Barry Hovis, stated that he was motivated “from the Biblical side of it, . . . life does occur at the point of conception.” Another co-sponsor, Representative Ben Baker, stated: “From the one-cell stage at the moment of conception, you were already there . . . you equally share the image of our Creator . . . you are His work of art.” Another supporter, Representative Holly Thompson Rehder, urged passage of H.B. 126 by exhorting her colleagues: “God doesn’t give us a choice in this area. He is the creator of life. And I, being made in His image and likeness, don’t get to choose to take that away, no matter how that child came to be. To me, life begins at conception, and my God doesn’t give that option.”

8. This open invocation of religion in enacting H.B. 126 marked a departure from earlier legislative efforts to restrict abortion, when the sponsors claimed that their intent was to protect Missouri women. The legislative debate over those provisions reveals that, as with H.B. 126, the true purpose and effect of these laws was to enshrine certain religious beliefs in law. In

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<sup>3</sup> Susan Szuch, *After Missouri Banned Abortions, She Was Left ‘with a Baby Dying Inside.’ Doctors Said They Could Do Nothing*, Springfield News Leader (10:27 a.m. CT, Oct. 19, 2022), <https://www.news-leader.com/story/news/local/ozarks/2022/10/19/missouri-laws-abortion-ban-left-her-with-a-baby-dying-inside-pprom/10366865002/>.

enacting S.B. 5, for example, legislators spoke repeatedly of their intent to protect “innocent life,” could point as justification for the law only to biased investigations by the Senate “Sanctity of Life” Committee, and ignored the testimony of clergy who warned that targeting providers to limit abortion access impermissibly imposed one religious view on everyone else.

9. In holding that there is no right to abortion under the Due Process Clause of the U.S. Constitution, the *Dobbs* decision made the constitutional protections afforded by state constitutions paramount. And the Missouri Constitution does not tolerate this establishment into law of one particular religious view at the expense of others’ religious freedom and of the health and lives of millions of Missourians. The State of Missouri is, fundamentally and at its best, a home for diverse faiths and viewpoints respecting matters of religion. That is no accident. The Missouri Constitution has three separate provisions—Article I, Sections 5, 6, and 7—that prohibit the establishment of or preference for any particular faith. The Supreme Court of Missouri has repeatedly emphasized that these fundamental constitutional protections are more protective than those in the federal constitution, for that is how the people of this State and the framers of its constitution have ensured that all may enjoy religious freedom and live together in relative harmony in our religiously pluralistic society.

10. That healthy pluralism is at grave risk. Many people of faith support abortion access not despite, but because of, their religion. Among them are Plaintiffs in this case—an interdenominational coalition of clergy who, consistent with their faith traditions, oppose the Legislature’s explicit preference for and establishment in law of others’ religious beliefs about abortion. Collectively, Plaintiffs, like other clergy and faith communities all across this State, have through their work providing care, counseling, teaching, and preaching, spent decades countering the false but all too common assertion that faith and abortion access are incompatible.



Their beliefs and lived experiences stand in stark contrast to the religious dictates that the Total Abortion Ban, Gestational Age Bans, Reason Ban, 72-Hour Delay, Same-Physician Requirement, Medication Abortion Restrictions, and Concurrent Original Jurisdiction Provision (collectively, the “Challenged Provisions”) impose on all Missourians.

11. The people of this State, through their Constitution, have spoken loud and clear: We each have the right to decide for ourselves whether and what to believe and practice when it comes to matters of faith. In enacting and enforcing the Challenged Provisions, legislators imposed their preferred religious doctrine on everyone, forcing the citizens and taxpayers of this State to fund the establishment of that doctrine and to obey it regardless of their own faith and beliefs, and irrespective of the resulting grave harms to those seeking abortion care. State officials’ arrogation to themselves of the people’s fundamental right not to be forced by the State to live in accordance with others’ religious beliefs hurts Plaintiffs, and all Missourians. If this State’s legacy of religious freedom for all is to mean anything, the Challenged Provisions and their implementing regulations cannot stand. This Court should hold that these provisions are unconstitutional establishments of religion that cannot be enforced.

### **JURISDICTION AND VENUE**

12. This Court has jurisdiction under Article V, Section 14 of the Missouri Constitution, §§ 478.220, 526.030, 527.010, 527.020, RSMo and Missouri Supreme Court Rules 87.01 and 92.01.

13. Venue is proper in this Court because several Plaintiffs live or work in the City of St. Louis, the Challenged Provisions are subject to enforcement in St. Louis, and Defendant Circuit Attorney for the City of St. Louis maintains offices and performs her main duties in St. Louis.

## PARTIES

### A. Plaintiffs

14. Plaintiffs are 13 members of the clergy from diverse faith traditions, including multiple denominations of Christianity, Unitarian Universalism, and Judaism.

15. Plaintiffs all oppose the Challenged Provisions based on their individual religious beliefs, traditions, and commitments.

16. Plaintiffs are all residents of and pay taxes to the State of Missouri, including income and sales taxes. Plaintiffs are suing in their capacity as Missouri taxpayers for the Challenged Provisions' violations of their rights under Article I, Sections, 5, 6, and 7 of the Missouri Constitution. One Plaintiff is also suing based on the substantial risk of harm she faces as a woman of reproductive age resulting from the Challenged Provisions.

#### **The Reverend Traci Blackmon**

17. The Reverend Traci Blackmon is a resident of St. Louis County, Missouri, where she has resided since 1987. She is the Associate General Minister of Justice and Local Church Ministries for the United Church of Christ (UCC). Rev. Blackmon is a Missouri taxpayer.

18. Rev. Blackmon felt called to serve God from an early age, but she did not see women preaching in the churches she attended growing up in Alabama. She obtained her Bachelor of Science in Nursing from Birmingham-Southern College in 1984. Beginning her 25-year nursing career at the height of the HIV/AIDS epidemic, she immediately understood the importance of showing her patients respect and compassion. In 2009, Rev. Blackmon obtained a Master of Divinity degree from Eden Theological Seminary in Webster Groves, Missouri, and became the first woman pastor in the 162-year history of Christ The King United Church of Christ.

19. Rev. Blackmon aims to be part of the legacy of the UCC—which voted in 1971 to acknowledge the right to abortion—by supporting reproductive decision-making and helping people obtain access to abortion care. Rev. Blackmon’s social-justice work, including her work for reproductive justice, is rooted in her spirituality. All of Rev. Blackmon’s work is guided by the principle that God resides in every person. Integral to her faith is her belief that God is a God of choice, that people are called on to wrestle with complex decisions, and that individuals should have the autonomy to determine what happens to their own bodies. She believes that God intended for people to exercise autonomy over their lives and that bodily autonomy should not be dependent on where a person happens to live.

20. In her capacity as a faith leader, Rev. Blackmon has spoken at rallies for abortion justice, including the Stop the Bans St. Louis rally in 2018. She was an influential spiritual leader during the racial-justice protests in Ferguson, Missouri, after a police officer brutally killed Michael Brown in 2014. She was appointed to the Ferguson Commission by Missouri Governor Jay Nixon and to the President’s Advisory Council on Faith-Based and Neighborhood Partnerships by President Barack Obama. In 2008, she organized efforts with churches, mosques, and synagogues to mobilize St. Louis County voters.

21. Rev. Blackmon believes in the importance of church-state separation because the country—and Missouri—is not a monolith. Missouri’s abortion Ban offends her religious freedom by legislating one narrow view of Christian principles and coerces people into complying with one religious belief. Whereas the UCC has worked to fight for the liberation of marginalized people and explicitly supports reproductive justice, Rev. Blackmon believes that theology can also be used to oppress, as the Challenged Provisions do. She brings this suit to prevent Missouri from continuing down that dangerous and misguided path.

## **The Reverend Barbara Phifer**

22. The Reverend Barbara Phifer is a United Methodist minister and is currently state representative for Missouri District 90. She lives in St. Louis County and has been a resident of Missouri since 1968. Rev. Phifer is a Missouri taxpayer.

23. Rev. Phifer was raised in a Southern Baptist household in Virginia. She attended Cornell College, a United Methodist affiliated college in Iowa, and completed her seminary training at St. Paul's School of Theology in Kansas City, where she graduated with a Master of Divinity in 1980. She was ordained as an elder in 1981.

24. In 1978, while Rev. Phifer was in her second year of seminary, she experienced a missed abortion—a miscarriage in which the fetus remains in the uterus. Rev. Phifer experienced such difficulties and delay receiving proper care in Missouri that she was eventually advised by multiple physicians to go to Kansas to receive a dilation & curettage procedure (“D&C”) unless she could receive a D&C in Missouri the next day. The next day she was finally admitted to a hospital in Missouri and received a D&C—but the fact remains that she waited five weeks for necessary medical care and could have died. Rev. Phifer was devastated that Missouri would have just let her die, and she later recounted this story on the Missouri House floor. In 1982, she experienced a miscarriage at 8 weeks. These experiences shaped her religious beliefs about abortion care and were points of inspiration in her decision to run for elected office.

25. Rev. Phifer's faith informs her belief in abortion rights. Of particular importance to Rev. Phifer's religious conviction is the Wesleyan Quadrilateral—a Methodist methodology that employs four sources to arrive at theological conclusions: scripture, tradition, reason, and experience. Rev. Phifer understands scripture as a guiding force and measure of faith but does

not believe that it should always be followed literally. In her belief system, scripture should be tempered by reason and experience.

26. Given this framework, Rev. Phifer's religious beliefs necessitate the continued availability and legality of abortion care. The essence of her faith is that God created all human beings and that all humans have intrinsic worth created equally in the eyes of God. This necessitates that the health and well-being of women must take priority and that their decisions regarding health care must be respected as fully as a man's decisions. By removing a person's ability to decide whether to have an abortion and their ability to obtain an abortion in the state, the Challenged Provisions conflict with the directive under Rev. Phifer's faith to give priority to the lives and decision-making ability of women.

27. In her role as a minister, Rev. Phifer counseled people regarding abortion care. In these conversations, Rev. Phifer empowered people to consider all the factors that were important to them, such as their current obligations, future plans, financial resources, emotional resources, and health issues. Many of these conversations occurred with women who already had children at home.

28. The Challenged Provisions offend Rev. Phifer's religious beliefs and are contrary to her ministry because they remove the decision-making capacity from pregnant people, which conflicts with her belief that all people are made in God's image as autonomous beings with equal capacity to direct their lives.

### **Maharat Rori Picker Neiss**

29. Maharat Rori Picker Neiss is a resident of St. Louis County, Missouri. She is Executive Director of the Jewish Community Relations Council of St. Louis. Maharat Neiss is a Missouri taxpayer.

30. Maharat Neiss was ordained in 2014 after completing her studies at Yeshivat Maharat, a pioneering institution that trains Orthodox Jewish women for positions as clergy in the Orthodox community. Since childhood, she has been deeply devoted to her religious studies, with emphasis on understanding original texts. She moved to St. Louis in 2013 to accept a position at Bais Abraham Congregation, a Modern Orthodox Jewish synagogue in University City, Missouri, and completed her last year of study for ordination remotely.

31. Maharat Neiss supports abortion access because of her faith. Judaism recognizes that it is difficult to make broad statements about the unique personal circumstances surrounding pregnancy. Her faith highly values the health of pregnant people, including their mental health, and holistically considers the needs of pregnant people. Jewish law is clear that a fetus is not given the same value, status, or consideration as that of a living person until such time as it has taken its first breath outside the womb. Following the wisdom of her faith tradition, she recognizes that there are times when it would be permissible or even required by Jewish law to terminate a pregnancy if the health of the pregnant person is in jeopardy, and she has provided pastoral counseling to pregnant people during difficult pregnancies.

32. In 2015, Maharat Neiss served on the committee that rewrote the Jewish Community Relations Council's policy on reproductive health and families. That final policy, which was released in September 2015 and still governs JCRC today, states that rabbis should continue to offer private and compassionate pastoral care regarding abortion and that the government should not restrict any person's right of access to abortion care, because those restrictions violate the principle of separation of church and state.

33. Because of the Challenged Provisions, Maharat Neiss believes that she and others in her community would be barred from access to basic health care related to pregnancy and

abortion. She also objects that the Missouri legislature enacted a narrow religious understanding of abortion that conflicts with her own religious beliefs, signaling to her that her faith tradition, understanding, and interpretation are not respected, valued, or even recognized by her elected officials.

34. Maharat Neiss believes that the separation of church and state is a fundamental right for all people in America and has been foundational and critical for the safety, security, and success of Jews in America. The Challenged Provisions threaten that fundamental right by establishing a specific religious view on abortion that directly contradicts, devalues, and disrespects her faith tradition.

#### **The Reverend Molly Housh Gordon**

35. The Reverend Molly Housh Gordon is a resident of Boone County, Missouri and a minister at the Unitarian Universalist Church in Columbia, Missouri. She has resided in Columbia since 2012. Rev. Gordon is a Missouri taxpayer. In addition to her standing as a taxpayer, she sues based on the direct effect that the Challenged Provisions have on her ability to seek and obtain reproductive health care.

36. Rev. Gordon was raised Unitarian Universalist in Tulsa, Oklahoma, in a vocal, civically minded congregation that she describes as “lifesaving.” As part of her faith tradition, her family and her church raised her to be explicitly pro-choice. Personal conscience is the bedrock principle governing her Unitarian Universalist ministry and practice. In 2012, she completed her seminary training at the Harvard Divinity School and then moved to Columbia, where she serves as a minister and conducts faith-based community organizing, including work in reproductive justice.

37. As a minister, Rev. Gordon adheres to foundational principles of Unitarian Universalism, including recognizing the inherent worth and dignity of every person and the interconnectivity of all life. Rev. Gordon’s faith dictates that every body is sacred, has ownership over itself, and deserves not only freedom from harm but freedom to thrive. Rev. Gordon sees an inherent connection between Unitarian Universalism’s emphasis on bodily autonomy and the deeply personal nature of reproductive health care.

38. Rev. Gordon was trained by the Religious Coalition for Reproductive Choice to offer “all-options” religious counseling for pregnant people considering abortion. Her work in this regard focuses on supporting people to make a decision that aligns with their own morals and conscience, countering theological narratives that abortion is shameful, and providing resources when requested.

39. Rev. Gordon also supports access to reproductive health care, including abortion care, because she is of reproductive age and experienced a difficult pregnancy before the birth of her second daughter. Rev. Gordon suffers auto-inflammatory issues that cause muscle fasciculations throughout her body, followed closely by muscle fatigue, joint pain, and total body fatigue. These symptoms were exacerbated so severely during her previous pregnancy and immediate postpartum period that she was referred for a brain MRI, EMG and blood panels, which revealed a general autoimmune response but no specific diagnosis—a common outcome for those with auto-inflammatory issues. In light of this history, given the high likelihood of severe pregnancy-related complications, Rev. Gordon would seek abortion care if she became pregnant unintentionally. Rev. Gordon fears that she would not be able to obtain health care in the state of Missouri that would be necessary to preserve her own life, health, and well-being—which would run counter to her religious beliefs about the sacredness of her bodily autonomy



and agency. These religious beliefs also lead Rev. Gordon to fear that her daughters' bodily autonomy and agency will be violated by a lack of access to reproductive health care when they come of age.

40. The Challenged Provisions are thus entirely at odds with Rev. Gordon's religious beliefs, practice, and ministry because they establish into law a religious belief about when life begins that directly conflicts with her own religious beliefs and understanding of conscience and bodily autonomy. The Challenged Provisions also directly threaten Rev. Gordon's ability to obtain abortion care, putting her life, health, and well-being at risk.

**The Right Reverend Bishop Deon K. Johnson, Eleventh Bishop of the Episcopal Diocese of Missouri**

41. Bishop Deon K. Johnson is a resident of St. Louis County, Missouri, where he has lived since February 2020. He is the eleventh bishop of the Episcopal Diocese of Missouri, one of the one hundred ten Dioceses of the Episcopal Church, and the first openly gay Black Bishop in the Diocese. Bishop Johnson is a Missouri taxpayer.

42. Bishop Johnson was born and raised in an Episcopalian family in the Parish of St. Phillip, Barbados, by strong women who were foundational to strengthening his faith and service to the church. He immigrated to the United States when he was 14 years old and settled in Mount Vernon, New York, with his brother; his mother joined them two years later. His faith was heavily shaped by the influence of his maternal grandmother, who instilled in him the principle that God loves everyone, with no conditions.

43. Bishop Johnson first felt called to the ministry when he was 11 years old and going through the process of confirmation. He graduated from Case Western Reserve University in 2000 and received a Master of Divinity from the General Theological Seminary in 2003, and

that same year became ordained first as a deacon and then as a priest. Before coming to Missouri, Bishop Johnson served as an associate rector at Christ Episcopal Church in Shaker Heights, Ohio, and as the Rector of St. Paul's Episcopal Church in Brighton, Michigan.

44. Bishop Johnson was elected to the post of Bishop of the Episcopal Diocese of Missouri on November 23, 2019, on the first ballot, receiving a majority of clergy and lay votes, and was installed as bishop on June 13, 2020. As Bishop, he does not have his own congregation but oversees the congregations and campus ministries in the Diocese.

45. Bishop Johnson's views on abortion are informed by early teachings from his grandmother and by the Episcopal Church's long-standing opposition to any attempt by a national or state government to legislate away reproductive decision-making. Since at least the 1970s, the national Episcopal Church has issued statements and opinions declaring its stance that the decision to have an abortion is a personal one that should be discussed between pregnant persons and their medical providers. In 2018, at the national church's General Convention, the church declared that women's reproductive health care is integral to the struggle to assert their dignity and worth as human beings.

46. The Episcopal Church is based on the tenets of tradition, scripture, and reason. Bishop Johnson believes, consistent with the teachings of the Episcopal Church, that those must all be in balance, without any outweighing any other. He believes that abortion is not incompatible with scripture and is based in reason and science, and thus supported by the tradition of his faith.

47. A core belief of Bishop Johnson's is that, while it is the duty of church leaders to advise people who are making difficult reproductive decisions, they may not tell congregants what they can or cannot do with their bodies. During seminary, Bishop Johnson served as a

chaplain in a hospital where he would sometimes speak with pregnant patients. When they asked him about his opinion regarding a decision they needed to make about abortion, he informed them that they should consider their options and pray, but that the ultimate decision was theirs.

48. The Challenged Provisions are entirely at odds with Bishop Johnson's beliefs and religious practices regarding abortion. They enshrine in law a narrow, religious view that does not reflect his own beliefs or the doctrine of the Episcopal Church.

### **Rabbi James Bennett**

49. Rabbi Jim Bennett is a resident of St. Louis County, Missouri, where he and his wife have lived for 30 of the last 40 years. Since 2004, Rabbi Bennett has been Senior Rabbi at the Reform Jewish Congregation Shaare Emeth in St. Louis County, the oldest and largest congregation for Reform Judaism in the greater St. Louis area and the largest synagogue in Missouri, serving approximately 1,500 families. Rabbi Bennett is a Missouri taxpayer.

50. Rabbi Bennett was raised in a mainstream Reform Jewish household by parents who were very active in and involved with the Jewish community. His father, a physician, was a leader in the local congregation wherever the family lived, and his mother, a music teacher, taught Sunday school. As passionate supporters of human rights, Rabbi Bennett's parents taught him from a young age that the Jewish faith is consistent with the pursuit of social justice and reproductive freedom.

51. Rabbi Bennett is a lifelong student of the Jewish faith and its tenets. Growing up, he attended Sunday school devoutly and engaged with his congregation's clergy. His interest in theology continued to grow while he was an undergraduate student at Indiana University, where he discovered a passion for philosophy and ethics—subjects he now occasionally teaches at St. Louis University. After receiving his bachelor's degree from Indiana University in 1979, Rabbi

Bennett attended rabbinical school at the Hebrew Union College–Jewish Institute of Religion in Cincinnati, Ohio, and was ordained in 1984. As a Rabbi, he has spent his career studying Jewish texts and their teachings on ethics. His in-depth understanding of Reform Judaism’s moral principles strengthens his decades-long support of reproductive freedom.

52. Rabbi Bennett was drawn to Shaare Emeth for its activism and emphasis on social justice as a core principle of Reform Judaism. The congregation’s leadership has historically advocated for reproductive freedom. Rabbi Bennett’s predecessor, Rabbi Emeritus Jeffrey Stiffman, delivered pro-choice sermons from the pulpit. Compelled by this same commitment to civil liberties, Rabbi Bennett first joined Shaare Emeth’s clergy upon ordination, serving as Assistant and Associate Rabbi from 1984 to 1993. He returned to the congregation in 2004 after a 10-year stint as Senior Rabbi at Temple Beth El in Charlotte, North Carolina. Together, Rabbi Bennett and his team at Shaare Emeth serve as a voice for justice, freedom, and individual rights within St. Louis’s Jewish community and the city at large.

53. Based on his extensive studies, Rabbi Bennett believes that the teachings and dominant view in mainstream Reform Judaism are that the decision to terminate a pregnancy is a personal one, that human life does not begin at conception, and that abortion is neither a sin nor a violation of any commandment. In Rabbi Bennett’s understanding, Reform Judaism—whose texts explicitly endorse an individual’s right to terminate a pregnancy in most cases—unequivocally rejects the notions that a fetus has personhood and that abortion constitutes termination of human life. This religious understanding of reproductive rights, which categorically gives priority to the life, safety, and well-being of the pregnant person over a fetus, is widely accepted in Reform Judaism and deeply rooted in Jewish scripture and tradition going all the way back to the written Torah—Judaism’s most sacred text.

54. As a spiritual guide and religious counselor, Rabbi Bennett has often discussed the issue of abortion with people contemplating it, members of their community, and his congregation at large. When individuals considering the termination of a pregnancy have sought his advice, he has explained to them that Reform Jewish doctrine, which affirms the dignity and autonomy, generally gives them freedom of choice on the matter. Moreover, seeing that Reform Jewish theology directly addresses abortions, Rabbi Bennett and his fellow clergy members at Shaare Emeth regularly educate their congregation about the topic. He also serves as a board member of Access MO, a political-action committee inspired by Jewish values that works to restore abortion access in Missouri.

55. In Rabbi Bennett's view, state-sponsored restrictions or bans on abortion violate his freedom of religion because they are based on one narrow Christian interpretation of abortion, when life begins, and the definition of personhood. Generally, and especially when the pregnant person's life or well-being is at risk, those restrictions are wholly inconsistent with Reform Judaism. The Challenged Provisions are anchored in a religion different from Rabbi Bennett's and impose on him and on fellow Reform Jews a religious doctrine that contradicts their own.

#### **The Reverend Holly McKissick**

56. The Reverend Holly McKissick is the founding pastor of Peace Church United Church of Christ in Kansas City, Missouri, where she has served for 11 years. She has lived in Kansas City for 35 years—predominantly (and for the past 8 years) in Jackson County. Rev. McKissick is a Missouri taxpayer.

57. Rev. McKissick was born and raised in Texas to a family that belonged to the Christian Church (Disciples of Christ). In 1973, The Christian Church (Disciples of Christ) affirmed the right to abortion care.

58. Having been raised in a church that espouses “the social gospel,” Rev. McKissick believes that trying to mend broken and unfair systems is central to the life of faith. Rev. McKissick’s faith is grounded in a Christian tradition passionately opposed to practices and policies that oppress individuals and communities.

59. After attending Texas A&M University, Rev. McKissick graduated from seminary at Texas Christian University’s Brite Divinity School in 1987. Upon her ordination in the Christian Church (Disciples of Christ), Rev. McKissick moved to Kansas City to work as an associate pastor. In 1990, she founded Saint Andrew Christian Church (Disciples of Christ) in Olathe, Kansas. She served as pastor at Saint Andrew until 2011, when she founded the Peace Church and received standing in the United Church of Christ. The UCC is at the forefront of the struggle to secure equal and fair access to abortion and family planning.

60. Rev. McKissick believes that she was called to a ministry that nurtures the flourishing of human life. In 1987, while working as an associate pastor, Rev. McKissick began volunteering at the local Planned Parenthood clinic. She was instrumental in establishing an interfaith Religious Affairs committee, which advocated for reproductive care, trained clergy in options counseling, and initiated the hiring of a chaplain to assist Planned Parenthood patients. Rev. McKissick served on the board of Planned Parenthood for a decade, and she has written and spoken frequently about the right to reproductive care.

61. Rev. McKissick’s faith affirms freedom of conscience. In a complex world, people make decisions holding together faith and reason. Laws that regulate abortion run counter

to her faith because they punish people who decide to terminate a pregnancy. Given that the reasons to end a pregnancy may be varied and complex, Rev. McKissick believes that her faith requires her to approach the decision to undergo an abortion with empathy and reason.

62. As a pastor, Rev. McKissick engages with the issue of abortion fairly frequently. For example, in her sermons Rev. McKissick has often preached about reproductive justice and the right to terminate a pregnancy. Since her role entails counseling members of her congregation on issues of faith and personal decision-making, Rev. McKissick has regularly discussed pregnancy and family-planning issues with her congregation. When congregants facing an unintended pregnancy have come to Rev. McKissick for help, she has talked to them about their options, including abortion, adoption, and parenting. When congregants have chosen abortion, she has viewed her role as a pastor to help them carry out that decision and be there for them as a spiritual guide. Thus, Rev. McKissick firmly believes that, as a pastor, she has a duty and a right to discuss abortion care with congregants who are considering that option.

63. Rev. McKissick believes that the Challenged Provisions establish in law a view of personhood that directly conflicts with her own religious understanding and the practices she has performed as a pastor. Rev. McKissick strongly objects to the Challenged Provisions' violation of the separation of church and state—a foundation of her ministry since 1985, when she had a seminary internship with the National Council of Churches focusing on legislative issues involving the separation of church and state.

### **The Reverend Krista Taves**

64. The Reverend Krista Taves resides in St. Louis County, Missouri, where she is the Minister of Congregational Life at Eliot Unitarian Chapel. Rev. Taves is a Missouri taxpayer.

65. Rev. Taves joined a Unitarian Universalist church in 1997 in Toronto, Canada, where she quickly fell in love with the faith and the congregation. She found that the inclusive Unitarian theology fit her like a glove and dovetailed with her activism in Toronto's bisexual community. After several people encouraged her to pursue ministry, she began seminary training at the University of Toronto in the fall of 1999, specializing in chaplaincy and pastoral care.

66. While in seminary, Rev. Taves completed a chaplain residency at St. Michael's Hospital, a Catholic hospital in Toronto. She was placed in the hospital's OB-GYN section, where she performed baptisms for newborns, naming ceremonies for stillborn babies, and pastoral care for new parents. As a chaplain, she served a range of faith perspectives, and her responsibility was to meet the patients' diverse spiritual needs.

67. Rev. Taves became a formally ordained Unitarian Universalist minister in 2004 and moved to Missouri in 2005 to serve as the minister at Emerson Unitarian Universalist Chapel in Ellisville, Missouri. She has resided in Missouri ever since.

68. Since her arrival in Missouri, Rev. Taves has involved herself in the struggle for reproductive justice in the state. In 2006, she joined the Board of the Missouri Religious Coalition for Reproductive Choice, a multifaith coalition of faith leaders dedicated to eliminating the religious stigma surrounding abortion. She received the MORCRC training to become an All Options counselor and has been providing this service since 2007. She attended pro-choice lobby days in Jefferson City and participated in witnessing for choice outside Hope Clinic for Women to support women being harassed by anti-choice protesters as they entered the clinic. In 2008, MORCRC became a national organization, Faith Aloud. Rev. Taves served as President of Faith Aloud from 2009-2012. She continues to serve as a volunteer clergy counselor for Faith Aloud,



providing spiritual counseling and care for people around the world who call Faith Aloud's hotline to discuss reproductive decision-making.

69. Unitarian Universalists place a strong emphasis on the sacredness of bodily autonomy and have for over two centuries advocated for gender equality. In line with this history, Rev. Taves sees her efforts to support abortion access as fulfilling and living within a legacy that existed before she came along.

70. Rev. Taves currently serves as a minister at both Eliot Unitarian Chapel in Kirkwood and the First Unitarian Church in Alton, Illinois, just across the river. She finds herself in the unusual position of serving two congregations who have unequal reproductive rights because of where they live.

71. Rev. Taves objects to the Challenged Provisions personally, politically, and religiously. She particularly objects to the Missouri legislature's establishment of the belief that life begins at what they call "conception." People of faith view in many different ways the questions of when life begins and what, if anything, it means for their beliefs about abortion. To have that question forced on Unitarians and answered in a particular way infringes on their faith. Rev. Taves's faith instead places a deep trust in the inherent goodness of humankind and individuals' ability and sacred right to make moral decisions regarding their own bodies. In Rev. Taves's view, religious leaders have a responsibility as people of faith to be in solidarity with people who are making decisions about whether to have an abortion.

### **The Reverend Cynthia S. Bumb**

72. The Reverend Cindy Bumb is a resident of the City of St. Louis, Missouri, and an ordained minister in the United Church of Christ. Rev. Bumb has lived predominantly in

Missouri since 1981, and continuously in the state since 1991. Rev. Bumb is a Missouri taxpayer.

73. Rev. Bumb's father was a minister in the UCC. Rev. Bumb was raised in various states as her family moved in service of her father's ministry. She fondly recalls her childhood involvement with the church and the Friday nights she spent at church watching movies while her dad handed out popsicles. Rev. Bumb moved to Missouri in 1981 to complete her master's degree in Social Work at Washington University in St. Louis. She later completed her seminary training at Eden Theological Seminary in Webster Groves and became ordained in 1992. Rev. Bumb retired from full-time employment in July 2022. In her 30 years of ministry, she served as a local church pastor and as a chaplain and administrator in faith-based health and human services organizations.

74. Rev. Bumb's religious views on abortion care and reproductive decision-making were shaped by UCC tradition. For more than fifty years, the UCC has been vocally supportive of abortion access and reproductive justice. Rev. Bumb sees the relationship between her faith practice and abortion access as organic. The foundational principles of her faith are rooted in love of God, love of neighbor, and love of self. She believes that nothing separates us from God's love, and that God supports us as we conscientiously make difficult decisions in life, including reproductive decisions.

75. Rev. Bumb's views on pregnancy and parenthood were additionally shaped by the years before she attended seminary that she spent as a social worker providing social services to children and parents. Her social work, which was inspired by her faith and her desire to give back to her community, taught her about the difficulties that parenthood may present. She also

understood through her social work that adoption is not a “magic pill” that can replace the necessity of abortion access.

76. Rev. Bumb received a legal abortion in Missouri. In 1993, she discovered 12 weeks into her wanted pregnancy that she was miscarrying a nonviable blighted ovum. Her doctor at St. Mary’s Hospital in St. Louis informed her that she could either wait for her body to expel the pregnancy on its own, which would involve bleeding and cramping for an indeterminate time, or have an emergency D&C. She chose the latter. Rev. Bumb later gave birth to healthy children in 1995 and 1998.

77. Rev. Bumb views abortion both as essential health care and as fully aligned with her faith. From 1996 to 2001, she was Executive Director of the Missouri Religious Coalition for Reproductive Choice. During that time, she spoke out as a religious leader in support of access to reproductive health care because she wanted to contribute a faith-based voice to the reproductive-rights, health, and justice movement. Through MORCRC, she counseled numerous women considering abortion and helped to develop a curriculum and training for clergy through the national Religious Coalition for Reproductive Choice. In 1998, while pregnant, Rev. Bumb coordinated and led an interfaith blessing for the new headquarters for Planned Parenthood of the St. Louis Region/Reproductive Health Services. Rev. Bumb continues to serve as a volunteer clergy counselor with Faith Aloud.

78. Rev. Bumb has always maintained her belief that legislators have no right to ban abortion based on their view of when life begins, because when life begins is a religious question on which people of different faiths and no faith hold differing views. She believes that abortion bans prohibit many people from making their own faith-based reproductive decisions, and that abortion bans especially oppress those without resources to go elsewhere for abortion services.

The Challenged Provisions are entirely at odds with Rev. Bumb’s religious beliefs and offend the faith practice that she conducted throughout her 30-year career as a minister. Now that her daughter is of reproductive age, Rev. Bumb is also concerned that Missouri’s restrictions on abortion access threaten her daughter’s ability to obtain reproductive health care. Through this lawsuit, Rev. Bumb seeks to ensure that the Missouri legislature upholds its duty to abide by the Missouri constitution’s guarantee of the separation of church and state.

**Rabbi Susan Talve**

79. Rabbi Susan Talve is a resident of St. Louis County, Missouri. She is the founding rabbi of Central Reform Congregation in St. Louis. Rabbi Talve is a Missouri taxpayer.

80. Rabbi Talve has, since her adolescence, been passionate about abortion rights. She grew up in a suburb of New York City and had an abortion in 1973 at 19 years old—just a few years after abortion was legalized in the state. She felt immensely relieved to be able to obtain this procedure legally because, for her, it was the right decision. She grew up with a mother who was equally passionate about reproductive rights and helped people obtain abortions both before and after they became legal.

81. Rabbi Talve was ordained by the Hebrew Union College–Jewish Institute of Religion in Cincinnati, Ohio. She moved to St. Louis in 1981, shortly after her ordination. She founded Central Reform Congregation in 1984, originally with a small group of 30 people who were committed to establishing an inclusive congregation in the City of St. Louis and to combatting racism and poverty in a highly segregated city. Central Reform Congregation has grown to serve close to 800 households and is a committed pro-choice congregation. To this day, it is the only Jewish congregation within the city limits of St. Louis.

82. Rabbi Talve's support for abortion rights is inextricably tied to her Jewish faith and her role as a spiritual leader in the Jewish community. Throughout her rabbinical career, she has counseled her congregants about abortions. She has counseled multiple women with wanted pregnancies whose health was at risk from pregnancy that Jewish law gives priority to the life of the pregnant person and thus supports them in whatever decision they make.

83. Rabbi Talve also believes, as part of her faith, that abortion must be legal in order to ensure equal application of the laws to all people regardless of faith or belief, and that otherwise the law is favoring one religion over others. Centuries ago, the Talmud concluded that the life of the mother always takes precedence over the fetus, teaching, "[If] a woman who was having trouble giving birth . . . her life comes before its life." (Mishneh Ohalot 7:6). She is supported by the fact that the Reform and Conservative branches of Judaism, comprising the majority of American Jews, believe that access to abortion is essential to their religious practice.

84. Rabbi Talve is deeply aware of the inequities in access that result from abortion bans. In her opinion, because people with resources and privilege are usually able to obtain abortions elsewhere, Missouri's restrictive laws create a bias in our legal system that flouts Rabbi Talve's understanding and interpretation of Jewish principles of justice. For example, just as the Torah permits capital punishment only if it can be administered in an unbiased manner, Rabbi Talve believes that abortion bans that apply in practice only to some people cannot be reconciled with her faith. By enshrining one interpretation of Christian belief into law, the Missouri legislature has forced onto Rabbi Talve religious views that directly contradict her own. She is challenging Missouri's abortion Ban because she knows that the separation of church and state is essential to her own religious freedom and the religious freedom of her entire congregation.

85. Rabbi Talve has also come to embrace the importance of church-state separation through witnessing her daughter's battle with a congenital heart condition. Before Rabbi Talve's youngest child, Adina Talve-Goodman, tragically died from cancer in 2018, she was a passionate advocate for embryonic-stem-cell research. As a heart-transplant recipient, Ms. Talve-Goodman understood that this research offered the promise for patients like her to eventually have the ability to grow their own hearts. Had she been able to receive a heart grown from her own stem cells, she would still be alive today, as the cancer that killed her developed as a result of her post-transplant immunosuppressant therapy. On several occasions, Ms. Talve-Goodman testified before Congress in support of stem-cell research. She felt strongly—as does Rabbi Talve—that her life should matter more than the embryos that lawmakers sought to protect at her expense. Rabbi Talve knew then, as she does now, that when legislators codify their own Christian beliefs about when life begins, they deny critical health care to people who need it—including her own daughter, who stood to benefit from stem-cell research, as well as members of Rabbi Talve's congregation who seek abortion care.

### **Rabbi Douglas Alpert**

86. Rabbi Doug Alpert has lived almost his entire life in Jackson County in Kansas City, Missouri, where he is the sole rabbi of Congregation Kol Ami KC. He is also former president of the Rabbinical Association of Greater Kansas City. Rabbi Alpert is a Missouri taxpayer.

87. Rabbi Alpert grew up in a Conservative synagogue, attended an Orthodox synagogue while he was an undergraduate, and has been affiliated with both Conservative and Reform congregations in the years since. He appreciates many aspects of these different traditions while disagreeing with others, which is why he is rabbi of Congregation Kol Ami, a

denominationally unaffiliated synagogue. He has been the rabbi at Congregation Kol Ami since 2011.

88. Rabbi Alpert completed his rabbinic studies at the Academy for Jewish Religion in Yonkers, New York, and was ordained in 2012, one year after he acquired his pulpit at Congregation Kol Ami. He also holds a master's degree in Judaic Studies from the Siegal College of Jewish Studies in Cleveland, Ohio.

89. Rabbi Alpert's views on abortion are guided by his understanding of Jewish law: Jewish law is clear that life does not begin at fertilization. Abortion is permissible for any reason for the first 40 days after fertilization, and from 40 days until birth, the life and health of the pregnant person must take precedence over the fetus. Rabbi Alpert sincerely believes that Judaism calls for a broad definition of a pregnant person's health, and that challenges including financial difficulties and protecting mental health are appropriate reasons to terminate a pregnancy. In counseling on abortion, Rabbi Alpert centers the welfare of his congregants and does not believe in imposing any moral judgment on their decisions.

90. Rabbi Alpert's beliefs on abortion also derive from the principle of *pikuach nefesh*—that saving a human life takes precedence over any other commandment in Jewish law. Considering the risks of pregnancy, he believes that this principle requires access to abortion to uphold the sanctity of the lives of pregnant people.

91. Growing up as a religious minority, Rabbi Alpert has always had an instinctive appreciation for the importance of church-state separation. As a religious leader, he would never seek to write his Jewish perspective into law or impose it on clergy from another faith. He is concerned about how the challenged provisions erode the separation of church and state, which is essential to preserving religious freedom. Rabbi Alpert sees injustice in the way that anti-

abortion laws disproportionately and negatively affect Black women, Latinx women, the poor, the LGBTQ+ community, and other marginalized communities.

92. Rabbi Alpert has channeled his support for abortion rights into his work with Planned Parenthood Great Plains, where he has been a board member since August 2021. More broadly, his support for healthcare access motivated him to serve as a past president and longtime board member of Missouri Healthcare for All. Rabbi Alpert has also been involved with numerous other religious, community, and social-justice organizations, including Missouri Faith Voices, Faith in Action, Gamaliel National Religious Leaders' Caucus, Missouri NAACP, Stand Up KC, Jobs with Justice, Poor People's Campaign, and Migrant Farmworkers Assistance Fund. Rabbi Alpert feels compelled to do this work because of his Jewish values and strives to bring a Jewish voice into social-justice advocacy.

93. The Challenged Provisions legislate a narrow religious view that is contrary to the principle of *pikuach nefesh* and Rabbi Alpert's religious views about abortion.

### **The Reverend Janice Barnes**

94. The Reverend Jan Barnes resides in St. Louis County, Missouri. She is retired from pastoral ministry, maintaining her standing with the St. Louis Association of the Missouri Mid-South Conference, United Church of Christ. She is currently a member of First Congregational Church, Webster Groves, U.C.C. She has lived in Webster Groves since 1986. Rev. Barnes is a Missouri taxpayer.

95. Rev. Barnes grew up in the Church of Christ, a conservative Christian denomination where she did not see women included in leadership roles. She stepped away from this church until she had children and then joined the United Church of Christ in the late 1970s. She moved to Missouri to attend Eden Theological Seminary in Webster Groves. After attending



seminary for a year, she withdrew from classes to care for her three young children while her husband traveled for his career. She continued to work on the staff of local UCC churches Bethany-Peace, UCC; First Congregational Church, Webster Groves, UCC; Grace UCC; Mt. Tabor UCC; and Trinity UCC. Her path was overseen by the Committee on Ministry, Preparation, of the St. Louis Association, supported by mentors and seminary staff. At the direction of the Committee on Ministry she completed required courses at Eden Theological Seminary and St. Louis University Hospital. She was also Commissioned as a Religious Educator and licensed as an Associate Pastor during that time. When approved for ordination, she accepted the call to ministry at Trinity UCC and was ordained on Women's Sunday, March 2015. During her retirement, Rev. Barnes continues to preach regularly as a guest preacher for a variety of audiences. She also remains an active and engaged member of the congregation at the First Congregational Church of Webster Groves, participating in biblical storytelling and art projects.

96. Rev. Barnes is a longtime believer in abortion rights, a belief that is rooted in her faith. She believes that God wants health and wellbeing for all people, which includes the ability for women to make reproductive decisions that are best for them. Upon moving to Webster Groves to attend seminary in 1986, Rev. Barnes and her husband, Roger Barnes, became volunteer clinic escorts for Planned Parenthood. She always wore her UCC collar when doing this work because she felt deeply that her faith called her to support abortion rights.

97. Rev. Barnes has a long history of counseling people on reproductive decision-making. Rev. Barnes served as a hospital chaplain at St. Louis University Hospital periodically from approximately 2000 to 2020, during which time she worked three to four *pro re nata* shifts a week at St. Louis University Hospital, where she had been trained in Clinical Pastoral

Education. In this work, and in her role as a pastor, Rev. Barnes counseled individuals on reproductive decisions. In the late 1980s and 1990s, Rev. Barnes also channeled her religious support for reproductive rights into volunteer work with Faith Aloud and the Religious Coalition for Reproductive Choice. At Faith Aloud, her work included phone counseling. When counseling women contemplating abortions, she would explain to them that, in her belief, there is no scriptural basis for opposition to abortion, nor is there any biblical prohibition of abortion, and that God supports individuals in making decisions for themselves about whether to have an abortion. She firmly believes that it is part of a pastor's religious role to support people seeking guidance about their reproductive decisions.

98. The Challenged Provisions legislate a narrow religious view that is entirely at odds with Rev. Barnes's own religious views about abortion and the practices she has conducted as a minister.

### **Rabbi Andrea Goldstein**

99. Rabbi Andrea Goldstein is a resident of St. Louis County, Missouri. She is a full-time rabbi at Congregation Shaare Emeth in Creve Coeur, the oldest and largest congregation for Reform Judaism in the greater St. Louis area and the largest synagogue in Missouri, serving approximately 1,500 families. Rabbi Goldstein is a Missouri taxpayer.

100. Rabbi Goldstein's views about abortion are inspired by her Jewish faith. As a member of her synagogue's youth group, she initially learned that Judaism teaches that life begins at first breath. Her beliefs are also informed by Genesis 1:26, which states that "we are created in the image of the holy one." Rabbi Goldstein believes that because we are made in God's image, the decisions we make for our bodies should be honored. Recognizing that individuals have different relationships with their pregnancies, and that the needs and

perspectives of individuals are varied and unique, Rabbi Goldstein teaches her congregation that women are autonomous individuals capable of making the decisions that are right for their families.

101. Rabbi Goldstein was ordained by the Hebrew Union College–Jewish Institute of Religion in Cincinnati, Ohio, in 1998. Shortly thereafter, she moved to St. Louis to accept the position at Shaare Emeth, where she has remained ever since. When she arrived in St. Louis as a rabbi, she joined the Missouri Religious Coalition for Reproductive Choice. In 2018, Rabbi Goldstein founded the Jewish Mindfulness Center of St. Louis within Shaare Emeth, to create a space where community members could reflect on their spiritual values and embrace life with a compassionate heart. Over her 25-year tenure at Shaare Emeth, Rabbi Goldstein has fostered an inclusive community with a strong emphasis on promoting social justice, including by advocating for access to abortion, supporting abortion funds, and educating youth and other congregants on Judaism’s perspective on abortion.

102. When the Supreme Court’s draft opinion in *Dobbs v. Jackson Women’s Health Organization* was leaked in May 2022, Rabbi Goldstein urged her congregation and her community not to give into despair and wrote a message to the congregation on behalf of the clergy and Board of Trustees reaffirming Congregation Shaare Emeth’s commitment as a pro-choice congregation. She has met with individuals and couples to provide pastoral care when they needed a medically required abortion, as well as people who were contemplating an elective abortion. She has offered words of solidarity and comfort to pro-abortion-rights protesters at her local Planned Parenthood. Her faith also brought her to serve as a board member of Access MO, a political-action committee inspired by Jewish values that works to restore abortion access in Missouri.

103. Rabbi Goldstein believes that her faith demands reproductive freedom. She brings this action challenging Missouri's abortion Bans because they force a belief that is contrary to her faith, robbing her and her congregants of their religious freedom.

## **B. Defendants**

104. The Defendant State of Missouri is responsible for enforcement of the state's criminal laws, including the Total Abortion Ban and Gestational Age Ban in H.B. 126, and other provisions challenged in this case.

105. Defendant Michael L. Parson is the Governor of Missouri and has offices headquartered in Jefferson City, Missouri. Under Article IV of the Missouri Constitution, the supreme executive power is vested in Governor Parson, and it is his duty to take care that the laws, including Article I of the State Constitution, are faithfully executed in Missouri. Also under Article IV of the Missouri Constitution, Governor Parson is directly responsible for ensuring that all Missouri agencies, including the Missouri State Board of Registration for the Healing Arts (State Board) and the Department of Health and Senior Services (DHSS), comply with applicable federal and state laws. Governor Parson signed H.B. 126 into law on May 24, 2019, explicitly stating his support for it. H.B. 126 grants Governor Parson the authority to notify the revisor of statutes through a proclamation that the United States Supreme Court has overruled *Roe*, thereby rendering effective the enactment of the Total Abortion Ban. § 188.017(4), RSMo. Upon the overturning of *Roe* by the *Dobbs* decision on June 24, 2022, Governor Parson issued such a proclamation and once again expressed his and his administration's support for the Ban. While *Dobbs* was being deliberated, Governor Parson advocated for the Total Abortion Ban by joining other governors in filing an amicus brief that advocated for the overturning of *Roe*. He and his agents and successors are sued in their official capacities.

106. Defendant Andrew Bailey is the Attorney General of Missouri and has offices headquartered in Jefferson City, Missouri. He has concurrent original jurisdiction (with all Circuit and Prosecuting Attorneys in each City or County) throughout the State to commence actions for any violation of a provision of Chapter 188 of Title XII—including the authority to prosecute alleged criminal violations of the Total Abortion Ban, the Gestational Age Bans, the 72-Hour Delay, the Same-Physician Requirement, and the Medication Abortion Restrictions §§ 188.017(1), .056(1), .057(1), .058(1), .375(3), (6), RSMo, or to seek injunctive relief against any abortion provider who knowingly violates any of the Challenged Provisions, so as to prevent the provider from performing or inducing further prohibited abortions. *See id.* § 188.075(3), RSMo. He and his agents and successors are sued in their official capacities. On information and belief, the Attorney General of Missouri has expended taxpayer funds to implement and enforce the Challenged Provisions, and to defend the Challenged Provisions in court, including in connection with *Reproductive Health Services of the St. Louis Region et al. v. Parson*, 1 F.4th 552 (8th Cir. 2020) (vacated after hearing *en banc*), 389 F. Supp. 3d 631 (W.D. Mo. 2019) (challenging the Gestational Age Bans and Reason Ban); *Comprehensive Health of Planned Parenthood Great Plains v. Hawley*, Case No. 1716-cv-24109 (Jackson City Cir. Ct.) (challenging the Same-Physician Requirement); *Comprehensive Health of Planned Parenthood Great Plains v. Williams*, No. 2:17-cv-4207 (W.D. Mo.) (challenging the Medication Abortion Restrictions and DHSS implementing regulation).

107. The Prosecuting Attorneys for Boone County (currently Roger Johnson), who maintains an office in Columbia, Greene County (currently Dan Patterson), who maintains an office in Springfield, Jackson County (currently Jean Peters Baker), who maintains an office in Kansas City, Jasper County (currently Theresa Kenney), who maintains an office in Joplin, St.

Charles County (currently Tim Lohmar), who maintains an office in St. Charles, and the City of St. Louis (currently Kimberly M. Gardner), whose office is located at the Carnahan Courthouse, 1114 Market St., Room 401, St. Louis, Missouri 63101. Collectively, the Prosecuting Attorneys of Boone, Greene, Jackson, Jasper, and St. Charles Counties and the City of St. Louis and their agents and successors are sued in their official capacities only and as representatives of a defendant class of all Circuit and Prosecuting Attorneys in Missouri who enforce the state's criminal laws, including the Total Abortion Ban, the Gestational Age Bans, the 72-Hour Delay, the Same-Physician Requirement, and the Medication Abortion Restrictions. Under Mo. Const. art. V, § 27(10)(c), the class representatives have the powers, duties, and functions of the prosecuting attorneys for Boone, Greene, Jackson, Jasper, and St. Charles Counties and the City of St. Louis. Circuit and Prosecuting Attorneys possess jurisdiction concurrent with the Missouri Attorney General's to prosecute alleged criminal violations in their Circuit or county of any provision of Chapter 188 of Title XII, including the Total Abortion Ban, the Gestational Age Bans, the 72-Hour Delay, the Same-Physician Requirement, and the Medication Abortion Restrictions. *See* §§ 56.060(1), .430, .450, RSMo. The members of the Circuit and Prosecuting Attorney class likewise have jurisdiction concurrent with the Missouri Attorney General's to seek injunctive relief against any abortion providers in their jurisdictions who knowingly violate the Challenged Provisions, so as to prevent providers from performing or inducing further prohibited abortions. *See* § 188.075, RSMo. On information and belief, the named class representatives and other members of the defendant class have expended taxpayer funds to implement and enforce the Challenged Provisions, and to defend the Challenged Provisions in court, including in connection with *Reproductive Health Services of the St. Louis Region et al. v. Parson*, 1 F.4th 552 (8th Cir. 2020) (vacated after hearing *en banc*), 389 F. Supp. 3d 631 (W.D.

Mo. 2019); *Comprehensive Health of Planned Parenthood Great Plains v. Hawley*, Case No. 1716-cv-24109 (Jackson City Cir. Ct.); *Comprehensive Health of Planned Parenthood Great Plains v. Williams*, No. 2:17-cv-4207 (W.D. Mo.).

108. Defendant Marc K. Taormina is President of the State Board of Registration for the Healing Arts. Defendant Naveed Razzaque is Secretary of the State Board. And Defendants Jeffrey D. Carter, James A. Direnna, Jeffrey S. Glaser, Jade D. James-Halbert, Katherine J. Mathews, and David E. Tannehill are members of the State Board, which has offices headquartered in Jefferson City, Missouri. The Challenged Provisions direct the State Board and its members, who are responsible for licensing health personnel, to suspend or revoke the license of practitioners. *See* § 188.065, RSMo. Likewise, the Board is charged with imposing licensing penalties on a final adjudication of guilt, guilty plea, or plea of nolo contendere in a criminal prosecution under the Challenged Provisions. *See* § 334.100(1), (2)(2), RSMo (authorizing the Board to impose licensing penalties after final adjudication of guilt, guilty plea, or plea of nolo contendere in a criminal prosecution under the laws of any state for any offense reasonably related to the regulated practice of medicine). On information and belief, the Board has expended taxpayer funds to enforce the Challenged Provisions and to defend the Challenged Provisions in court, including in connection with *Reproductive Health Services of the St. Louis Region et al. v. Parson*, 1 F.4th 552 (8th Cir. 2020) (vacated after hearing *en banc*), 389 F. Supp. 3d 631 (W.D. Mo. 2019); *Comprehensive Health of Planned Parenthood Great Plains v. Hawley*, Case No. 1716-cv-24109 (Jackson City Cir. Ct.); *Comprehensive Health of Planned Parenthood Great Plains v. Williams*, No. 2:17-cv-4207 (W.D. Mo.). The State Board Defendants and their agents and successors in office are sued in their official capacities.

109. Defendant Paula F. Nickelson is Acting Director of DHSS, a state agency created by § 192.005, RSMo, which has offices headquartered in Jefferson City, Missouri. H.B. 126 authorizes and empowers DHSS, which is statutorily charged with the licensing of abortion facilities, §§ 197.200–.240, RSMo, to investigate “compliance with the provisions of chapter 188,” § 197.230(2)(2), RSMo, and to deny, suspend, or revoke a clinic’s license if a facility is determined to have violated the Challenged Provisions, § 197.200, RSMo (granting DHSS the authority to deny, suspend, or revoke a clinic’s license for any violation of state law). On information and belief, DHSS has expended taxpayer funds on the implementation of the Challenged Provisions, including by enforcing them and by defending them in court, *see Reproductive Health Services of the St. Louis Region et al. v. Parson*, 1 F.4th 552 (8th Cir. 2020) (vacated after hearing *en banc*), 389 F. Supp. 3d 631 (W.D. Mo. 2019); *Comprehensive Health of Planned Parenthood Great Plains v. Hawley*, Case No. 1716-cv-24109 (Jackson City Cir. Ct.); *Comprehensive Health of Planned Parenthood Great Plains v. Williams*, No. 2:17-cv-4207 (W.D. Mo.), by promulgating regulations implementing the Challenged Provisions, and by hiring additional staff to implement them, *see* Comm. on Leg. Res., Oversight Div., Fiscal Note for H.B. 126 (June 20, 2019). Defendant Nickelson and her agents and successors are sued in their official capacities.

## FACTUAL ALLEGATIONS

### A. **The Challenged Provisions Enshrine in Law a Legislative Preference for One Religious Belief**

110. The text and legislative debate over the Challenged Provisions unequivocally evidence the legislature’s intent to enact and encode in Missouri law particular religious beliefs



about abortion, and to justify the Challenged Provisions as the implementation of those religious beliefs.

111. In enacting H.B. 126, the Missouri legislature unequivocally enshrined religious precepts in law. Although the bill as introduced contained no reference to God, the language in subsequent versions became increasingly religious, culminating in the overtly religious language that was ultimately passed and signed into law. *See* § 188.010, RSMo. The enacted legislation declares: “it is the intention of the general assembly of the state of Missouri” to “[r]egulate abortion” “in recognition that Almighty God is the author of life.” *Id.* In enacting H.B. 126, the Missouri Legislature approved this language, enshrining that religious belief in law.

112. During the legislative debates over H.B. 126, Missouri legislators expressly stated their intent to impose on Missourians of all faiths a specifically conservative Christian, religious view about the beginning of life. The bill’s sponsors and supporters made that intent plain again and again during floor debates over the bill in the Missouri House of Representatives on February 26-27 and May 15, 2019, and in the Missouri Senate on April 18 and May 15, 2019.

113. During these debates, members of the Missouri legislature explained the law in starkly religious terms.

114. For example, during the House floor debate on February 26, 2019, one of H.B. 126’s co-sponsors, Representative Ben Baker, urged support for H.B. 126 by exhorting his colleagues:

Ladies and gentlemen, from the one-cell stage at the moment of conception, you were already there. We just couldn’t see you yet. And what makes you valuable is that you equally share the image of our Creator. You are His work of art. And the masterpiece of your life will only happen if you allow it to develop.

115. Another H.B. 126 co-sponsor, Representative Barry Hovis, similarly explained during the February 27, 2019, floor debate:

So I had to make a decision on when I believe that life was present. And being from the Biblical side of it, I've always believed that life does occur at the point of conception.

116. And the lead sponsor of H.B. 126, Representative Nick Schroer, emphasized the importance of having religious precepts, including that life begins at conception, written into the legislative findings of the bill. In an exchange with his co-sponsor Representative Hovis on May 17, 2019, Representative Schroer explained:

I'll say this again, as a Catholic I do believe life begins at conception, that is built into our legislative findings currently in law . . . .

117. Opponents of the bill also noted the sponsors' invocations of religious principles and noted that the bill directly violates constitutional provisions requiring the separation of church and state. For example, during the February 26 debate, Representative Ian Mackey questioned "how many of our constituents agree with the statement that God is the author of human life." Mackey went on to warn his colleagues that the bill "itself is in violation of the separation of church and state. It's an anti-constitutional statement in and of itself and I ask the body to oppose . . . ." Similarly, during the May 15, 2019, Senate debate, Senators Scott Sifton and Jamilah Nasheed had an extended interchange about how H.B. 126 violates antiestablishment principles and religious freedom, with Senator Nasheed warning: "People can practice their religions as they see fit, but don't come legislating your own religious beliefs on to other people. That's not right."

118. Notwithstanding these warnings, proponents of the bill continued to use starkly religious terms to encourage their colleagues to support the bill. For example, following and

referencing Representative Mackey’s warning, Representative Kathryn Swan directly urged her colleagues to disregard the separation of church and state:

Yesterday there was a lot of dialogue regarding religion, religious beliefs, how this weighs into our decisions, how this weighs into what we do in this chamber. Lest we forget, why did our country, why was it formed to begin with? Opportunity, freedom, freedom of religion, and faith, and it was all based upon a foundation of faith. We just recited the Pledge of Allegiance, “One Nation Under God.” Is that not how we built this country? Upon our religious faith, upon our principles, upon the Golden Rule, about helping other people and being able to have the opportunity to better ourselves. I beg to differ at the time of choice. The time of choice is the time of conception, not after conception. We must support this bill.

119. Referencing the same remarks from the previous day, Representative Adam Schnelting likewise urged the legislature to ignore principles of separation of church and state:

[J]ust to touch on something someone had mentioned yesterday, that this is unconstitutional separation of church and state. Well, fact of the matter is, I know of no greater way of affirming the natural rights of man than to declare that they are a gift from our Creator that neither man nor government can abridge, Mr. Speaker.

120. During the same debate, Representative Holly Thompson Rehder urged:

God doesn’t give us a choice in this area. He is the Creator of life. And I, being made in His image and likeness, don’t get to choose to take that away, no matter how that child came to be. To me, life begins at conception, and my God doesn’t give that option . . . .

121. And in the May 17, 2019 debate, Representative Mary Elizabeth Coleman urged her colleagues to support final passage, saying:

I believe firmly that no matter what age you are, that if you are a woman, if you are a man, your life has value. You have inherent dignity provided by the Constitution. I’m sorry, protected by the Constitution. And inherent dignity provided by God.

122. Also in the May 17 debate, Representative Thompson Rehder said: “Life begins at conception. Psalms 119 says ‘Your hands made me and formed me.’ That’s the very initial stages. . . . to stand on the floor and say ‘How could we make someone look at a child from rape

or incest, and to care for them?, I can say how we can do that. We can do that with the love of God that he puts in our hearts for those children.”

123. The legislators who enacted H.B. 126 were emboldened to invoke their religious motivation openly and explicitly to a degree that they had not in debating earlier legislation. Yet that earlier legislation, which targeted abortion providers for unnecessary and onerous regulations, including the 72-Hour Delay, Same-Physician Requirement, and Medication Abortion Restrictions, similarly enshrines in Missouri law and imposes on all Missourians a particular conservative Christian religious view held by state officials about the beginning of life.

124. That religious objective is evident in debates on Senate Bill 5, the legislation enacted during a 2017 taxpayer-funded special session called by the Governor, in which the Same-Physician Requirement and Medication Abortion Restrictions were enacted. Although the putative goal of the bill’s sponsors and supporters was to “protect the health and safety of women,” the legislators repeatedly revealed their true religious intent during committee and floor debates in the House of Representatives on June 14, June 19, and June 20, 2017, and in the Senate on June 12–15, 2017 and July 24-25, 2017. In these debates, sponsors and supporters repeatedly referred to the legislation as a “pro-life bill” intended to protect “innocent life.” As Senator Mike Kehoe explained during the July 24, 2017, floor debate: “[F]or myself, for my own personal beliefs, and for the constituents that I represent, if we come together in our minds, if we do anything that just saves one innocent life, I think it was worth being here. . . . I believe that to my heart.” And when pressed during committee hearings for actual evidence for why the bill was necessary to “protect health and safety,” sponsors of the proposed House bill Representatives Jason Barnes and Kathryn Swann could point only to the report from an investigation a Senate

committee on the “Sanctity of Life”—a committee name that itself underscores the committee’s religious motivations and objectives.<sup>4</sup>

125. During debate on House version of S.B. 5 in the House Children and Families Committee on June 14, 2017, then-Representative Mike Moon invoked his beliefs in starkly religious terms to argue that the proposed legislation did not go far enough to “end[] abortion”: He asked the bill’s sponsors whether they shared the belief that “abortion ends the life of a separate, unique, living human being,” argued that an embryo is alive and that abortion is the “murder of . . . whole human beings,” and asked that the law be changed “to protect the right of all human beings born and unborn.”

126. Representative Swann responded that she “empathize[d]” with Representative Moon’s desire to prohibit abortion outright because “[o]bviously I’ve taken a personal oath in my religious belief to preserve the sanctity of human life from conception to natural death,” but she noted that the proposed bill was the most they could legally do. Representative Barnes likewise responded that he agreed with Representative Moon’s beliefs but that the bill was all they could do at the time.

127. Later during the June 14 committee hearing, Representative Steve Cookson also invoked his religious beliefs about when life begins, inquiring in support of the bill:

We’ve heard a lot of testimony today about pro-life and pro-choice. And life—fetuses are life. My question is—what choice does the fetus have in all of this process?

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<sup>4</sup> “Sanctity” is, of course, an inherently religious term meaning “holy or sacred” and entailing concepts of “godliness.” *Sanctity*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/sanctity> (last visited Jan. 18, 2023).

128. Rabbi Jonah Zinn of Congregation Shaare Emeth testified during the June 14 committee hearing about the Jewish perspective on abortion, including his faith's disagreement with the legislators' religious beliefs about when life begins; and he warned that the proposed regulations directly violate constitutional provisions requiring the separation of church and state:

The legislation that is being proposed and discussed this morning, it serves to privilege the religious beliefs of those who oppose abortion over the religious beliefs of those who understand it to be a necessary medical reality at times. And therefore, the move to limit a woman's access to health care really flies in the face of what we as Jews understand to be our moral and religious responsibilities. . . .

I think we've seen, across the country, when there have been attempts to place similar legislation in place, that the ability of women to access these necessary reproductive services are reduced as a result and infringes upon their religious commitment to have these kind of procedures. . . .

[P]art of our American society is ensuring that the religious beliefs of all Americans are protected. . . . What I find challenging is when people of faith attempt to impose their faith, their particular religious beliefs, on the religious beliefs of others. . . . The core point, that I hope we can agree on, is that we live in a society that guarantees the free exercise and expression of all different religious beliefs, and that on this particular issue that's particularly important that people who believe that women should have access to abortion should be afforded that opportunity.

129. Whereas Representative Stacey Newman responded to Rabbi Zinn's testimony by commenting that "[i]t's very important that we hear other religious viewpoints" and that "we should not be basing, you know, our legislative intent on one religion over another," Representative Moon doubled down, replying: "I guarantee you one thing, we're always gonna disagree on the killing of a human life."

130. Later, in offering an amendment on the bill on June 20, 2017, Representative Moon again urged his colleagues that they needed to go even further to restrict access if they were to accomplish their religious goals:

I just know one thing. That once my time is done here in the House, I can go back to my farm, go back to my family, go back to the district I represent and I can hold my head high and say that I've done the very best to represent them and to truly protect life, what

the governor calls innocent life. I can lay my head on the pillow and rest well to know that I did what I thought was right. And I know it doesn't meet the approval of everyone, but as we all know, we're not going to please everybody. All I have to do is know that I tried to follow the precepts of my Heavenly Father the best I could and do what I can while I still have an opportunity to do it. So my apologies to you who I've offended.

131. In short, the sense of the legislature—those who sponsored and supported S.B. 5 and those who opposed it—was that the motivation for and object of the legislation were to advance and write into law a particular religious view of sanctity—holiness—that Plaintiffs, their coreligionists, and many, many other Missourians do not share. The legislature thus pressed ahead to enact S.B. 5 to advance that particular religious view, undeterred by the warnings that doing so would run afoul of constitutional protections for religious pluralism.

132. The legislature's religious motivation and objective were also evident in the legislative debate on the 2014 legislation establishing the 72-Hour Delay Requirement, House Bill 1307. Throughout debate on this provision, legislators consistently justified their support by reference to their religious views about when life begins. Senator John Lamping likened the extended waiting period to the time to appeal a death sentence during debate on May 12, 2014:

Over time, we as a society and as a culture have come to recognize that the taking of life is an extraordinary thing, and . . . it now takes years if not decades before finally the state agrees to take the life of the person who has been found guilty by both judge and jury. And even then, in those last minutes, we wait for... we give the power to the executive of the state to grant mercy because we understand we are taking a life. . . . But we let mothers take the lives of their unborn children, and I am grateful for the fact that it will now be 72 hours that that woman, that mother, will have to think about the decision to take life. And my hope would be that yes, this bill does reduce the number of abortions, because in those extra 48 hours the mother comes to a realization that it is a life she is taking, and she chooses not to.

133. Senator David Sater likewise plainly encapsulated this religious motivation during floor debates on May 6, 2014, with the remarks: "Life is precious, and I wanna make sure that the unborn child does have a chance to survive. . . . Every person is equal in the eyes of God."

134. That citizens of this State and members of the legislature hold strong religious views is not a problem but a strength that Missouri's constitutional commitment to religious pluralism through the separation of religion and government is designed to protect.

135. But the text and legislative debate on H.B. 126, S.B. 5, and H.B. 1307 cross the line: They unequivocally evidence the Missouri Legislature's express religious intent and objective to ground the Challenged Provisions in particular religious beliefs about God and when life begins, to encode those particular religious doctrines in the law, and to justify the law as the implementation of those beliefs.

136. By implementing the specific Christian religious views espoused by the bills' sponsors and supporters, H.B. 126, S.B. 5, and H.B. 1307, and the Challenged Provisions in them straightforwardly violate the Missouri Constitution's robust protections for the religious freedom of all Missourians.

**B. Religious Pluralism and the Missouri Constitution's Antiestablishment Protections**

137. Religious pluralism has long flourished in Missouri and is a defining feature of this State and its constitutional order. *See Senate Session on House Bill 126*, 100th Gen. Assem., 1st Reg. Sess. (May 15, 2019) (statement of State Sen. Scott Sifton). Consider Kansas City: In the 1830s, Kansas City was the first stop for many Latter-Day Saints along the Santa Fe, California, and Oregon Trails. *City Profile: Kansas City, MO and KS (2012)*, Pluralism Project Archives, <https://hwpi.harvard.edu/pluralismarchive/city-profile-kansas-city-mo-and-ks>. The first synagogue in Kansas City was established in 1878. *Id.* The first Buddhist temple and India Association were founded there in 1965. *Id.* And many Muslims worshipped alongside Mennonites in the 1970s. *Id.*



138. The Missouri Constitution ensures essential protections for religious pluralism—a commitment that stems from the historical experience of the people of this State.

139. When Missouri joined the United States as part of the Missouri Compromise, it did so with a constitution that included a declaration of rights that “all men have a natural and infeasible right to worship almighty God *according to the dictates of their own consciences*,” and other robust protections for religious freedom and religious plurality. Mo. Const. of 1820, art. XIII, § 4, <https://cdm16795.contentdm.oclc.org/digital/collection/p16795coll1/id/25> (emphasis added).

140. Missourians have adopted four different constitutions since 1820, but one theme has remained constant: This State’s recognition that no preference be given to any religious denomination or faith tradition over others. *See id.*; *see also* Mo. Const. of 1865, art. I, §§ 9-10; Mo. Const. of 1875, art. II, §§ 5-6.

141. That is particularly true of Missouri’s current Constitution.

142. Article I, Section 5, for example, proclaims “that no human authority can control or interfere with the rights of conscience,” that “to secure a citizen’s right to acknowledge Almighty God according to the dictates of his or her own conscience, neither the state nor any of its political subdivisions shall establish any official religion,” and that “the state shall not coerce any person to participate in any prayer or other religious activity.” Mo. Const. art. I, § 5.

143. Article I, Section 6, states that “no person can be compelled to erect, support or attend any place or system of worship, or to maintain or support any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion.” Mo. Const. art. I, § 6.

144. Article I, Section 7, states that “no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of

any priest, preacher, minister, or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect or creed of religion or any form of religious faith or worship.” Mo. Const. art. I., § 7.

145. Simply put, the Missouri Constitution requires, as this State’s Supreme Court has repeatedly held, a strict separation of religion and government that is more robust than the federal Establishment Clause. *Gibson v. Brewer*, 952 S.W.2d 239 (Mo. banc 1997) (quoting *Paster v. Tussey*, 512 S.W.2d 97 (Mo. banc 1974)); *see also Saint Louis Univ. v. Masonic Temple Ass’n of St. Louis*, 220 S.W.3d 721 (Mo. banc 2007) (“Missouri’s establishment clause is more restrictive than the federal provision.” (quoting *Americans United v. Rogers*, 538 S.W.2d 711 (Mo. banc 1976))); *Waites v. Waites*, 567 S.W.2d 326 (Mo. banc 1978) (“We reiterate our determination that the Missouri Constitution contemplates a strict and pervasive severance between religion and the state.”); *Harfst v. Hoegen*, 163 S.W.2d 609 (Mo. 1941) (“The constitutional policy of our State has decreed the absolute separation of church and state, not only in governmental matters, but in educational ones as well.”).

146. The Missouri Constitution embodies respect for the diversity of religious and moral viewpoints by prohibiting any governmental preference for one set of beliefs over others.

### **C. Missouri’s History of Religious Support for Abortion Access**

147. Religious support for abortion has a long and noble history in Missouri and throughout the United States. Indeed, the misbelief that religious institutions and people uniformly oppose abortion did not appear until well after *Roe v. Wade* was decided. In the years leading up to *Roe*, religious organizations held diverse beliefs on abortion. George Gallup, *Abortion Seen Up to Woman, Doctor*, Wash. Post, Aug. 25, 1972, *reprinted in Before Roe v. Wade: Voices that Shaped the Abortion Debate Before the Supreme Court’s Ruling* 208 (Linda

Greenhouse & Reva Siegel eds., 2010) (hereinafter “Before *Roe v. Wade*”). Evangelicals did not immediately consolidate and mobilize around the *Roe* decision. Rather, the Southern Baptist Convention, for example, issued resolutions supporting the legalization of abortion as late as 1976. After decades of low political participation, evangelicals in the late 1960s had become politically mobilized not around abortion, but around defending racial segregation in religious universities and other evangelical institutions against the enforcement of IRS regulations. It was only *after* grassroots evangelical support for segregated institutions fizzled that the leaders seized on abortion as an issue that evangelicals could rally around. Randall Balmer, *The Religious Right & the Abortion Myth*, Politico (May 10, 2022),

<https://www.politico.com/news/magazine/2022/05/10/abortion-history-right-white-evangelical-1970s-00031480>. In 1979, there was a critical shift in views among certain religious groups about abortion: In that year, leaders of the emerging Christian Right were beginning to mobilize into a united front to stand against forces they believed threatened the traditional family and Christian values. R. Marie Griffith, *Moral Combat: How Sex Divided American Christians & Fractured American Politics* 228 (2017). In that year, Jerry Falwell founded the Moral Majority to oppose the influence of secular humanism, abortion, feminism, and gay rights. *Id.*

148. The conservative revolution of the mid-1970s aligned conservative religious organizations with a conservative social agenda, with opposition to abortion central to that new agenda. As historian Marie Griffith has described, evangelical and conservative leaders in the wake of *Roe v. Wade* “seized on the abortion issue to mobilize conservative Protestants as voters [and] new alliances emerged between evangelicals and conservative Catholics.” Griffith at 203. In short, the abortion issue, which previously had not been correlated with religiosity except for

Catholicism, had been transformed into a referendum on deeply held cultural and social values related to conservative Christian identity.

149. Before *Roe*, as today, many religious leaders argued in support of access to reproductive health care on explicitly religious and moral grounds. *See, e.g.*, Griffith at 203, 216-22, 238-39; Robert Wuthnow, *Red State Religion: Faith and Politics in America's Heartland* 273 (2012). Between 1966 and 1972, most of the denominations affiliated with the National Council of Churches adopted statements in support of abortion. Wuthnow 273. In the 1960s, mainline Protestant and Jewish religious organizations supported reform or repeal of criminal abortion laws, with opposition to abortion coming almost exclusively from the Catholic Church. *See* Br. Am. Ethical Union et al. as Amici Curiae Supp. Pl., *Roe v. Wade*, 410 U.S. 113 (1973) (Nos. 70-40, 70-18) (explaining that mainline Protestant New York Council of Churches endorsed the view that abortion is a medical decision and that some denominations, including Episcopalians, Universalists, and Christian Scientists, were opposed to laws criminalizing abortion); Karissa Haugeberg, *Women Against Abortion: Inside the Largest Moral Reform Movement of the Twentieth Century* 2 (2017) (noting that in the years before *Roe* the Catholic Church was the only major denomination explicitly opposed to abortion); *see also, e.g.*, Statement from The Reform Jewish Leadership, Union for Reform Judaism, 49th General Assembly, Montreal, Quebec (Nov. 1967), *in* Before *Roe v. Wade* 69-70 (“We urge our constituent congregations to join with other forward looking citizens in securing needed revisions and liberalization of abortion laws.”). Evangelical Christians at the time, including the Southern Baptist Convention, likewise supported legalizing abortion. Griffith 201. Indeed, the Southern Baptist Convention specifically passed a resolution in the years before *Roe* calling on

members to work for abortion's legalization; and leaders praised the *Roe* decision when it came out. *Id.*

150. In the years before *Roe* and the legalization of abortion, religious leaders across the country—including in Missouri—formed abortion-referral services, such the Clergy Consultation Service and Catholics for Free Choice, to assist women with obtaining safe abortions by referring them to abortion providers. Cynthia Gorney, *Articles of Faith: A Frontline History of the Abortion Wars* 31-37 (1998). The “Clergymen’s Consultation Service on Abortion” was founded by 21 Protestant ministers and rabbis who asserted that “it was their pastoral responsibility and religious duty to give aid and assistance to all women with problem pregnancies.” Edward B. Fiske, *Clergymen Offer Abortion Advice*, N.Y. Times (May 22, 1967), <https://www.nytimes.com/1967/05/22/archives/clergymen-offer-abortion-advice-21-ministers-and-rabbis-form-new.html>. This kind of religiously motivated support for abortion also has a robust history in Missouri, where, before *Roe*, religious groups provided counseling, referrals, and logistical support to women seeking abortions. The Clergy Consultation Service had an active branch in Missouri, which operated out of St. Louis. Although advising about abortion was illegal under Missouri law, many religious Missourians felt compelled by their beliefs to help women obtain access to counseling and health care safely. The service started in nascent form in the early 1960s, when Reverend John Ewing, a United Church of Christ minister who ran a campus ministry at Washington University, helped pregnant students obtain abortions, which were illegal at the time. When Reverend Ewing heard that one of his students had hemorrhaged after an abortion in Kansas City, he asked his friend Dr. John Vavra—a physician and Presbyterian Sunday-school teacher—for help setting up a safer alternative. *See* Gorney 29-31.

By the late 1960s, their word-of-mouth referral service had expanded and eventually became known as the Missouri CCS.

151. In the decade before *Roe*, the Missouri CCS counseled and advised countless women—nearly 300 a month in 1970—about how to obtain abortion care, first through abortion providers in the state willing to risk violating the law, and then by helping women travel to other states as abortion laws started to be liberalized. Gorney at 123-25. Nurse Judith Widdicombe and her husband ran the CCS hotline out of their home, where they would connect young women who called in to a “minister on duty in [their] area.” *Id.* at 63. Widdicombe was also active at Kirkwood United Methodist Church, where she volunteered regularly and served as a youth counselor; she eventually recruited her own pastor at Kirkwood, Reverend Ken Gottman. *Id.* at 19. Other participants in the Missouri CCS included Reverend Tom Raber, who pored over the Bible until he was satisfied that Scripture supported this ministry, *id.* at 69, and United Methodist Reverend William Kirby, who ministered at a women’s college in Columbia, Missouri, and was “[g]uided by Jesus’s commandment to ‘Love the Lord your God and love your neighbor as yourself.’” Faith in Women, Called to Resist: *Honoring the Legacy of the Clergy Consultation Service on Abortion* (Oct. 15, 2018), <https://www.faithinwomen.org/called-to-resist-honoring-the-legacy-of-the-clergy-consultation-service-on-abortion/>. The Missouri CCS also worked to effect legal change, a legacy that continues today. In 1970, leaders of the Missouri CCS joined physicians and women as plaintiffs in the lawsuit *Rodgers v. Danforth*, challenging Missouri’s pre-*Roe* abortion law on multiple grounds, including freedom of religious belief. Gorney at 126, 141; *see also* 486 S.W.2d 258, 259 (Mo. 1972). After *Roe*, the Clergy Consultation Service changed its name to the Religious Coalition for Abortion Rights, later the Religious Coalition for

Reproductive Choice, and spurred the group Faith Aloud—groups that are active today and whose membership includes several of the Plaintiffs in this action.

**D. The Challenged Provisions and Their Impact on the Health and Lives of Missourians**

**i. The Total Abortion Ban**

152. Missouri enacted the Total Abortion Ban in H.B. 126 as a “trigger” provision to spring into effect in the event of any of three triggering conditions, including notification to the Missouri Revisor of Statutes by an opinion of the Missouri Attorney General or Proclamation by the Missouri Governor that the U.S. Supreme Court had overruled *Roe v. Wade*. See § 188.017(4)(1), RSMo.

153. On June 24, 2022, the U.S. Supreme Court issued its decision in *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (2022), overturning *Roe* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992). The same day, then-Missouri Attorney General Eric Schmitt issued Opinion Letter No. 22-2022 to the Missouri Revisor of Statutes, announcing that the triggering condition for the Total Abortion Ban had been satisfied, and that enforcement of the Total Abortion Ban would commence immediately.<sup>5</sup> Defendant Parson issued a Governor’s Proclamation that day to the same effect.<sup>6</sup>

154. The Total Abortion Ban makes it a class B felony punishable by at least five—and up to 15—years in prison for “[a]ny person [to] knowingly perform[] or induce[] an abortion.” §§ 188.017(2), 558.011(1)(2), RSMo.

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<sup>5</sup> Mo. Att’y Gen. Op. No. 22-2022 (June 24, 2022).

<sup>6</sup> Right to Life of the Unborn Child Act, Mo. Exec. Proclamation (June 24, 2022), <https://governor.mo.gov/proclamations/governor-parson-signs-right-life-unborn-child-act-proclamation>.

155. The Total Abortion Ban further directs the Defendant Board to suspend or revoke a physician’s medical license as a civil penalty for any violation. *Id.* at §§ 188.017(2) (providing that any person who performs or induces an abortion in violation of the Total Abortion Ban “shall be . . . subject to suspension or revocation of his or her professional license by his or her professional licensing board”), .065 (providing that any health practitioner who “shall willfully and knowingly do or assist any action made unlawful by [§§ 188.010–188.085] shall be subject to having [their] license, application for license, or authority to practice [their] profession . . . in the state of Missouri rejected or revoked”). Moreover, DHSS may revoke or refuse to renew a clinic license because of a violation of the Total Abortion Ban. §§ 197.220, .230, RSMo; 19 CSR 30-30.060.

156. The Total Abortion Ban includes a provision ostensibly permitting abortions in the event of a “medical emergency.” § 188.017(2), (3), RSMo. But a qualifying medical emergency is narrowly defined as “a condition which . . . so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman.” § 188.015(7), RSMo. This medical-emergency provision does not prevent criminal prosecutions of providers; it simply gives a provider an affirmative defense that may be asserted in the event of prosecution. The provider bears the burden on this affirmative defense and must show, by a preponderance of the evidence, that the medical-emergency provision is satisfied. § 188.017(3), RSMo. Notably, Mylissa Farmer, a Missouri resident whose water broke at nearly 18 weeks of pregnancy, was denied emergency abortion care from a Missouri hospital. No actual exceptions to the Total Abortion Ban, including for pregnancies resulting from rape or incest, exist.



**ii. The Gestational Age Bans**

157. H.B. 126 imposes a cascade of Gestational Age Bans—at eight, 14, 18, and 20 weeks LMP (i.e., after the patient’s last menstrual period). In the event that the Total Abortion Ban is enjoined, the Gestational Age Bans will become effective, and any later Gestational Age Ban will remain in effect if an earlier Gestational Age Ban is enjoined. §§ 188.056, .057, .058, .375, RSMo.

158. These Gestational Age Bans criminalize knowingly performing or inducing an abortion at or beyond eight, 14, 18, or 20 weeks LMP. §§ 188.056(1), .057(1), .058(1), .375(3), RSMo; *see also* § 188.015(6), RSMo (providing that gestational age is measured “from the first day of the woman’s last menstrual period” for purposes of the statute).

159. Like the Total Abortion Ban, the Gestational Age Bans each include a provision ostensibly permitting abortions at or after the relevant gestational point in the event of a “medical emergency.” §§ 188.056(1)–(2), .057(1)–(2), .058(1)–(2), .375(3)–(4), RSMo. The same definition of “medical emergency” applies to the Gestational Age Bans as applies to the Total Abortion Ban. A qualifying medical emergency is narrowly defined as “a condition that . . . so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible physical impairment of a major bodily function.” § 188.015(7), RSMo. As with the Total Abortion Ban, the medical-emergency provisions in the Gestational Age Bans do not prevent criminal prosecutions of providers; they simply give the provider an affirmative defense that the provider may assert when prosecuted. And again, the provider bears the burden on this affirmative defense and must show, by a preponderance of the evidence, that the medical-emergency provision applies. §§ 188.056(2), .057(2), .058(2), .375(4),

RSMo. No actual exceptions to the Gestational Age Bans, including for pregnancies that result from rape or incest, exist.

160. As with the Total Abortion Ban, knowingly performing or inducing an abortion in violation of the 8-, 14-, 18-, or 20-Week Bans is a Class B felony punishable by at least five—and up to 15—years in prison. *See* §§ 188.056(1), .057(1), .058(1), .375(3), 558.011(1)(2), RSMo.

161. Each of the 8-, 14-, 18-, and 20-Week Bans also mandates the suspension or revocation of a provider’s license as a civil penalty for any violation. *See* §§ 188.056(1), .057(1), .058(1), .375(3), RSMo (providing that a person who performs or induces an abortion in violation of each Ban shall be “subject to suspension or revocation of his or her professional license by his or her professional licensing board”). The Defendant Board is responsible for suspending or revoking the licenses of practitioners. *See* §§ 188.017, .065, RSMo. Additionally, the Missouri Attorney General and prosecuting attorneys statewide—including the named class representatives and all other members of the Circuit Attorney and Prosecutor class—are statutorily empowered to seek injunctive relief against any abortion provider who knowingly violates any of these Gestational Age Bans, to prevent the provider from performing or inducing further abortions. *See* § 188.075, RSMo. Moreover, DHSS may revoke or simply not renew clinic licenses on the basis of a violation of the Gestational Age Bans. *See* §§ 197.220, .230, RSMo; 19 CSR 30-30.060.

**iii. The Reason Ban**

162. H.B. 126 also imposes a Reason Ban, which forbids any person from performing or inducing an abortion if the person “knows that the woman is seeking the abortion solely because of a prenatal diagnosis, test, or screening indicating Down Syndrome or the potential for

Down Syndrome”<sup>7</sup> or “solely because of the sex or race” of the embryo or fetus. § 188.038(2), (3) RSMo.

163. In addition, H.B. 126 imposes a new reporting requirement to enforce compliance with the Reason Ban. Before H.B. 126, the attending physician for an abortion was required to submit an Abortion Report § 188.052, RSMo. H.B. 126 added the requirement that the Report must now include “a certification that the physician does not have any knowledge that the woman sought the abortion solely because of a prenatal diagnosis, test, or screening indicating Down Syndrome or the potential of Down Syndrome” or “because of the sex or race” of the embryo or fetus. § 188.052(1), RSMo.

164. Violation of the Reason Ban exposes providers to civil penalties, including revocation by the Defendant Board of their medical licenses under Section 188.065. *See* §§ 188.017, 188.038(4), .065, RSMo. A physician who knowingly violates the Reason Ban may also be subject to a suit for injunctive relief, to be brought by either the Attorney General or the prosecuting attorney in any locale, including the named defendant Prosecuting and Circuit Attorneys and all other member of the defendant class. *See* § 188.075, RSMo. Moreover, DHSS may revoke or not renew clinic licenses based on violations of the Reason Ban. *See* §§ 197.220, .230, RSMo; 19 CSR 30-30.060.

#### **iv. The 72-Hour-Delay and Same-Physician Requirements**

165. House Bill 1307 in 2014 imposed a 72-Hour Delay on abortions, requiring that individuals seeking abortion care receive certain state-mandated information in person at least 72

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<sup>7</sup> “Down Syndrome” is defined as “a chromosomal disorder caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.” RSMo § 188.015(5), RSMo (adopting the “Down Syndrome” definition under § 191.923, RSMo).

hours before obtaining care. *See* §§ 188.027(1), 188.039(2), RSMo.; *see also* § 188.027(a) (imposing 72-hour delay on physician reimbursement). Individuals seeking abortion care must also be provided with the opportunity to view an active ultrasound and listen to cardiac activity at least 72 hours before obtaining care. *See* § 188.027(1)(4). No other medical procedure in Missouri is subject to a delay requirement.

166. If the 72-Hour Delay is enjoined, sections 188.027 and 188.039 include provisions imposing a 24-Hour Delay in its place. *See* §§ 188.027(12), 188.039(7), RSMo. Again, no other medical procedure in Missouri is subject to a delay requirement.

167. In 2017, S.B. 5 further imposed the medically unnecessary Same-Physician requirement, specifying that state-mandated information be provided to the individual seeking abortion care by the same physician who provides the abortion. *See* § 188.027(5), RSMo.

168. As with the Total Abortion Ban, Gestational Age Bans, and Reason Ban, “[a]ny practitioner of medicine, surgery, or nursing, or other health personnel who shall willfully and knowingly do or assist any action made unlawful by” the 72-Hour Delay and Same-Physician Requirements “shall be subject to having his [or her] license, application for license, or authority to practice his [or her] profession as a physician, surgeon, or nurse in the state of Missouri rejected or revoked.” *See* § 188.065, RSMo. The Defendant Board is responsible for suspending or revoking the licenses of practitioners. *See id.* Moreover, DHSS may revoke or not renew clinic licenses on the basis of a violation of the 72-Hour Delay or Same-Physician Requirements. *See* §§ 197.220, .230, RSMo; 19 CSR 30-30.060.

169. The members of the Circuit and Prosecuting Attorney class have jurisdiction concurrent with the Missouri Attorney General’s to seek injunctive relief against any abortion

provider in their jurisdictions who knowingly violates the 72-Hour-Delay and Same-Physician Requirements. *See* § 188.075, RSMo.

170. As with the Total Abortion Ban, Gestational Age Bans, and Reason Ban, the 72-Hour-Delay and Same-Physician Requirements each include a provision ostensibly permitting abortions in the event of a “medical emergency.” §§ 188.027(1), 188.039(2), RSMo. The same definition of “medical emergency” applies to the 72-Hour-Delay and Same-Physician Requirements as applies to the Total Abortion Ban, Gestational Age Bans, and Reason Ban: A qualifying medical emergency is narrowly defined as “a condition that . . . so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible physical impairment of a major bodily function.” § 188.039(1), RSMo. No actual exceptions to the 72-Hour-Delay and Same-Physician Requirements, including for pregnancies that result from rape or incest, exist.

**v. The Medication-Abortion Restrictions**

171. As part of S.B. 5, Missouri enacted a requirement that physicians who provide medication abortions have a “complication plan” approved by DHSS. Section 188.021(2) prohibits a physician from administering medication abortion without first obtaining approval from DHSS of its complication plan. This plan must include “any information deemed necessary by the department to ensure the safety of any patient suffering complications” from a medication abortion. § 188.052(2), RSMo.

172. Section 188.021(3) delegates authority to DHSS to “adopt rules, regulations, and standards governing complication plans.”

173. Under the authority granted to it by Section 188.021, DHSS promulgated 19 CSR 30-30.061. This regulation requires providers of medication abortions to have a “written agreement” with a board-certified OB/GYN or group of OB/GYNs, who must be “on-call and available twenty-four hours a day, seven days a week” to treat complications from medication abortions. 19 CSR 30-30.061(2)(D). This OB/GYN must “personally treat all complications” unless the standard of care requires the patient to be treated by a different physician and must “assess each patient individually” rather than referring to the emergency room or other facilities or physicians. 19 CSR 30-30.061(2)(G)(1)-(2). A facility that violates this statute risks losing its license. § 197.220, RSMo (authorize DHSS to suspend or revoke licenses); § 197.230 (authorizing DHSS to inspect facilities for compliance). A physician in violation faces a class A misdemeanor, § 188.075(1), RSMo, or revocation of her medical license by the Defendant Board, § 188.065, RSMo.

**vi. Concurrent Original Jurisdiction**

174. The concurrent-original-jurisdiction provision of S.B. 5 authorizes the Attorney General to step into the shoes of any circuit or prosecuting attorney to enforce violations of chapter 188, violations of state law on the use of public funds for an abortion, or violations of state law regulating abortion providers, without the participation of the circuit or prosecuting attorney for the pertinent jurisdiction. *See* § 188.075, RSMo. Through this provision, the legislature has given the Attorney General the power to displace circuit and prosecuting attorneys and override their prosecutorial discretion in order to enable draconian enforcement of these restrictions.

**vii. Expenditures by Defendants on Implementing the Challenged Provisions.**

175. Plaintiffs are suing as Missouri taxpayers because the Challenged Provisions violate their rights under Article I, Sections 5, 6, and 7 of the Missouri Constitution.<sup>8</sup> Missouri law allows taxpayers to sue to enjoin the unlawful expenditure of public funds; and under Missouri law, “[a] usual instance of the taxpayer suit has been to preserve the First Amendment separation between church and state.” *Missourians for Separation of Church & State v. Robertson*, 592 S.W.2d 825 (Mo. App. 1979). On information and belief, taxpayer funds are currently being and will in the future be used to implement and enforce the Challenged Provisions, constituting unlawful expenditures of taxpayer funds to establish religion and promote and enforce particular religious beliefs and articles of faith in Missouri.

176. H.B. 126 requires that abortion facilities and family-planning agencies in Missouri that provide information to an individual considering an abortion out of state “shall also provide to such woman the printed materials produced by [DHSS] under section 188.027.” These printed materials must “prominently display the following statement: ‘The life of each human being begins at conception. Abortion will terminate the life of a separate, unique, living human being.’” § 188.027(1)(2), RSMo. The statute specifies that DHSS must provide the printed materials “at no cost” to abortion facilities and family-planning agencies within the state. During the February 27, 2019, floor debate on H.B. 126 over the amendment that added this requirement, it was specifically noted that DHSS would need to expend public—i.e., taxpayer—dollars to finance printing the pamphlets required by this provision.

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<sup>8</sup> Plaintiff Reverend Molly Housh Gordon also sues based on the direct effect that the Challenged Provisions have on her ability to seek and obtain reproductive health care.

177. H.B. 126, S.B. 5, and H.B. 1307 resulted in the development and promulgation of new administrative regulations to implement some of the Challenged Provisions, including 19 CSR 10-15.010 (“Report of Induced Termination of Pregnancy”), 19 CSR 30-30.061 (“Complication Plans for Certain Drug- and Chemically-Induced Abortions Via Abortion Facilities”), and 19 CSR 30-30.060 (“Standards for the Operation of Abortion Facilities”). On information and belief, the State of Missouri expended taxpayer funds to develop, print, and distribute new regulations.

178. The Challenged Provisions create new categories of crimes to be investigated and enforced by Attorney General, the class of Circuit and Prosecuting Attorneys, and the DHSS. The following criminal charge-codes appeared for the first time in the 2018-19 Charge Code Manual, under the abortion Bans:

- 188.075-001Y201714.0 (“Knowingly Perform/Induce/Aid Performing (sic) An Abortion Contrary to Sections 188.010–188.085 Or Fail to Perform Action Required By Section 188.010–188.085”).
- 188.017-001Y202214\_ (“Perform or Induce Abortion - Not A Medical Emergency”).
- 188.027-001Y202014 (“Perform or Induce Abortion w/o Consent”).
- 188.056-001Y202014 (“Perform or Induce Abortion - Woman 8 Weeks Gestation or Later”).
- 188.057-001Y20201 (“Perform or Induce Abortion - Woman 14 Weeks Gestation or Later”).
- 188.058-001y202014 (“Perform or Induce Abortion - Woman 18 Weeks Gestation or Later”).



- 188.375-002y202014 (“Perform or Induce Abortion - Woman 20 Weeks Gestation or Later - Violation of Subsections 6 And 7”).

On information and belief, Defendants Attorney General and members of the Circuit and Prosecuting Attorney Class have expended and will expend public taxpayer funds on enforcing these portions of the Challenged Provisions. In the event that any of the bans in H.B. 126 are enjoined, Defendants will still expend taxpayer funds to enforce other Challenged Provisions; for example, expenditures for unannounced on-site investigations of any clinic providing abortion care for violations of ch. 188, as authorized by S.B. 5.

179. The Challenged Provisions also require that the Defendant Board impose licensure penalties on those found guilty of violations. On information and belief, the Defendant Board has expended and will expend public taxpayer funds to implement these aspects of the Challenged Provisions.

180. On information and belief, Defendants Governor Parson, the Attorney General, the Board of Registration for the Healing Arts, the Department of Health and Senior Services, and the Circuit and Prosecuting Attorney Class have expended public taxpayer funds to defend the abortion Bans in court, including in connection with *Reproductive Health Services of the St. Louis Region et al. v. Parson*, 1 F.4th 552 (8th Cir. 2020) (vacated after hearing *en banc*), 389 F. Supp. 3d 631 (W.D. Mo. 2019); *Comprehensive Health of Planned Parenthood Great Plains v. Hawley*, Case No. 1716-cv-24109 (Jackson City Cir. Ct.); *Comprehensive Health of Planned Parenthood Great Plains v. Williams*, No. 2:17-cv-4207 (W.D. Mo.).

181. On information and belief, to implement H.B. 126 the Department of Health and Senior Services needed to hire additional staff—including an additional attorney and an IT

specialist. Comm. on Leg. Res., Oversight Div., Fiscal Note for H.B. 126 (June 20, 2019). These expenditures of taxpayer dollars would not have been made but for the Challenged Provisions.

**E. The Challenged Provisions Deny the Constitutionally Guaranteed Religious Freedom for All by Defeating Religious Pluralism and Jeopardizing the Health and Life of Missourians**

**i. The Challenged Provisions Defeat Religious Pluralism**

182. People hold various religious, moral, and philosophical views about abortion. For many religious denominations, clergy, and individuals, including Plaintiffs, their faith calls them to support abortion access because of the critical importance it holds for the health, autonomy, economic security, and equality of women and all who can become pregnant.

183. Questions such as the point at which life begins and whether or when ensoulment occurs are quintessentially religious ones, about which different religions hold differing views. Yet the answers to those religious questions that the Challenged Provisions enact as Missouri law are specific to certain religions and directly contrary to the beliefs, teachings, and precepts of other faiths. The explicit invocations of conservative Christian notions of “conception” and sanctity of life in the text and legislative debate on H.B. 126 to justify banning abortion impose these particular religious beliefs on all Missourians, coercing people and faith communities with different beliefs and commitments to adhere to religious requirements of a faith that is not their own.

184. Contrary to the religious invocations of various Missouri legislators, numerous faith traditions specifically approve of abortion or view it as a personal decision, and in some faith traditions, there are circumstances under which abortions are religiously required.

185. For example, the Episcopal Church believes that “everyone [should] have the right to make decisions about their bodies and those decisions should be between them and their

medical provider.” *Resolution 2018-D032, Advocate for Gender Equity, Including Reproductive Rights, in Healthcare*, Archives of the Episcopal Church, <https://bit.ly/3xYYh1Z>.

186. The United Church of Christ has long supported access to abortion services. *See* Chris Davies, *Let’s Talk About Abortion*, United Church of Christ: Witness for Justice (Feb. 18, 2021), <https://bit.ly/37SyNZ>, <https://bit.ly/3swceU8>. The General Synod of the United Church of Christ has affirmed and reaffirmed since 1971 that access to abortion is consistent with the right of each person to follow the dictates of their conscience in determining whether and when they should have children. *See* United Church of Christ, General Synods VIII, IX, XI, XII, XIII, XVI, XVII, and XVIII. In keeping with these principles of faith, in 1987 the 16th General Synod urged “pastors, members, local churches, conferences, and instrumentalities to oppose actively legislation and amendments which seek to revoke or limit access” to abortions. *See* United Church of Christ, *Sexuality and Abortion: A Faithful Response, A Resolution of the 16th General Synod of the United Church of Christ* (1987).

187. The General Assembly of the Presbyterian Church (U.S.A.) has affirmed that “[h]umans are empowered by the spirit prayerfully to make significant moral choices, including the choice to continue or end a pregnancy.” *Abortion/Reproductive Choice Issues*, Presbyterian Church (U.S.A.) Presbyterian Mission, <https://bit.ly/3kj3JId>.

188. The Unitarian Universalist Association has described the right to abortion as an “important aspect” of “the right of individual conscience.” *Right to Choose: 1987 General Resolution*, Unitarian Universalist Ass’n, <https://bit.ly/3qUZvtZ>.

189. Within Judaism, life begins at birth, and Reform, Conservative, and Reconstructionist rabbinical bodies have all affirmed the right to an abortion. *See, e.g., Resolution on State Restrictions on Access to Reproductive Health Services*, Cent. Conf. of Am.

Rabbis (Apr. 2008), <https://bit.ly/3j0dDiE>; *Resolution: Right to Reproductive Choice*, Reconstructionist Rabbinical Ass’n, <https://bit.ly/3gfEup0>; *Resolution on Reproductive Freedom in the United States*, Rabbinical Assembly (May 21, 2012), <https://bit.ly/3mfM1I4>; Rabbi Lori Koffman, *Jewish Perspectives on Reproductive Realities*, Nat’l Council of Jewish Women, <https://bit.ly/3kpdS5Y>. As explained by Rabbi Danya Ruttenberg: “A story from the Book of Exodus, part of the Hebrew Bible, forms the backbone of Judaism’s formal take on abortion. Two people are fighting; one accidentally pushes someone who is pregnant, causing a miscarriage. The text outlines the consequences: If only a miscarriage happens, the harm doer is obligated to pay financial damages. If, however, the pregnant person dies, the case is treated as manslaughter. The meaning is clear: The fetus is regarded as potential life, rather than actual life.” See Danya Ruttenberg, *My Religion Makes Me Pro-Abortion*, *The Atlantic* (June 14, 2022), <https://www.theatlantic.com/family/archive/2022/06/judaism-abortion-rights-religious-freedom/661264>. Indeed, some Jewish sources hold that abortion is *required* if the pregnant person’s life or health (including mental health) is at risk. See Koffman. Even “[b]eyond life-or-death situations, Jewish law permits abortion in situations where carrying the fetus to term would cause ‘woe’—and that includes risks to mental health or to *kavod habriot* (dignity).” See Ruttenberg.

190. Even within particular denominations and religious traditions, individual believers hold a wide array of positions concerning abortion.

191. Though the Catholic Church opposes abortion, for example, a majority of Catholics in the United States disagree with the Church’s teaching and support access to abortion. See Gregory A. Smith, *Like Americans Overall, Catholics Vary in Their Abortion Views*, Pew

Res. Ctr. (May 23, 2022), <https://www.pewresearch.org/fact-tank/2022/05/23/like-americans-overall-catholics-vary-in-their-abortion-views-with-regular-mass-attenders-most-opposed>.

192. There is a diversity of views on these issues within Islam as well. Many Muslims believe that ensoulment occurs at 120 days and that abortion is permissible before that point; and traditional Islamic law does not treat the fetus as a person. *See, e.g.*, Khaleel Mohammed, *Islam and Reproductive Choice*, Religious Coal. for Reprod. Choice, <https://bit.ly/3xXvCKM>; Abed Awad, *Alabama's Abortion Law Is Not 'Christian Sharia,' Professor Says. Sharia Isn't as Inflexible, as Draconian*, Abed Awad, Esq. (July 11, 2020), <https://bit.ly/3M5JqeH>; Omar Suleiman, *Islam and the Abortion Debate*, Yaqeen Inst. (Sept. 20, 2022), <https://bit.ly/3C7bvh0>.

193. In Hinduism, the Brahma Kumaris believe that the soul enters the fetus only around the fourth or fifth month of pregnancy—and that the decision to have an abortion should be based on one's “lifestyle, morals, and values.” *Hindus in America Speak out on Abortion Issues*, Hinduism Today (Sept. 1, 1985), <https://bit.ly/3BZubAu>. And Hindus in the United States strongly support abortion access, based partly on the religious belief that “[i]ndividual ethical choice cannot be imposed on others.” Dheepa Sundaram, *Hindu's Classical Texts Strictly Forbid Abortion. Here's Why Many Hindus Don't.*, Religion News Serv. (May 20, 2022), <https://bit.ly/3BEpStj>.

194. Just as obtaining an abortion may be, and often is, a religiously based decision, so too is providing abortion care.

195. Many Jewish doctors, for example, see a “resonance between their Judaism . . . and their decision to provide abortion care,” with one calling her work a “mitzvah” (i.e., fulfillment of a commandment). Steph Herold, *What It's Like for Jewish Moms Who Are Abortion Providers*, Kveller (May 15, 2017), <https://bit.ly/3RiqYkh>.

196. Dr. George Tiller described his work in abortion care as a “ministry.” Carol Joffe, *Working with Dr. Tiller: His Staff Recalls a Tradition of Compassionate Care at Women’s Health Services of Wichita*, Rewire (Aug. 15, 2011), <https://bit.ly/3S4rUK6>.

197. Dr. LeRoy Carhart explained that he provided abortions “because of God, not in spite of God.” Tiffany Arnold, *An Interview with Dr. LeRoy Carhart*, Patch (Aug. 16, 2011), <https://bit.ly/3xHWG3g>.

198. Each Plaintiff in this action supports abortion access as a matter of faith. Several Plaintiffs point to their religion’s emphasis on autonomy for why their faith calls them to support abortion access. For example, Rev. Blackmon supports abortion access based on the belief that God intended for people to have autonomy over their lives; Rev. Gordon notes the Unitarian Universalist belief that every body is sacred and has ownership over itself; Rev. Taves emphasizes that individuals have autonomy to make moral decisions regarding their own bodies; and Rabbi Goldstein believes that we must honor bodily autonomy because we are made in God’s image.

199. Plaintiffs’ faith also leads them to support abortion access specifically because of the importance of abortion for the health and equality of women and people who can become pregnant. Rev. Barnes, for example, believes that God wants health and well-being for all, which requires access to abortion care. For Rev. Bumb and Rabbi Talve, both their faith and their personal experiences inform their understanding that abortion is essential health care, and that imposing by law the particular Christian belief that life begins at “conception” denies critical health care to those who need it.

200. All the Plaintiffs emphasize their faiths' focus on promoting social justice and equality, including gender and racial justice, and explain that this theological commitment requires supporting abortion access for all.

**ii. The Challenged Provisions Infringe on Plaintiffs' Faith Because They Jeopardize the Health and Lives of Missourians**

201. Plaintiffs' faith compels them to oppose the Challenged Provisions because of the devastation that these laws will cause to the health, autonomy, economic security, and equality of Missouri women and all who can become pregnant.

202. Abortion is one of the safest medical procedures in the United States. Only 0.23% of women who obtain abortions experience a serious complication,<sup>9</sup> and abortion-related mortality is lower than the mortality rate for colonoscopies, plastic surgery, and adult tonsillectomies.<sup>10</sup> Studies estimate that a woman's risk of death associated with childbirth nationwide is approximately 14 times higher than that associated with abortion; and all pregnancy-related complications, including life-threatening conditions, are more common among women giving birth than among those having abortions.<sup>11</sup>

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<sup>9</sup> Ushma Upadhyay et al., *Incidence of Emergency Department Visits and Complications After Abortion*, 125 *Obstetrics & Gynecology* 175, 175, 181 (2015).

<sup>10</sup> Compare Zane et al., *Abortion-Related Mortality in the United States 1998–2010*, 126 *Obstetrics & Gynecology* 258, 258 (2015) (finding abortion-related mortality rate of 0.7 per 100,000 procedures) with Ankie Reumkens et al., *Post-Colonoscopy Complications: A Systematic Review, Time Trends, and Meta-Analysis of Population-Based Studies*, 111 *Am. J. Gastroenterology* 1092, 1092 (2016) (colonoscopy-related mortality rate of 2.9 per 100,000 procedures); Steven M. Levine et al., *Plastic Surgery Mortality: An 11-Year, Single-Institution Experience*, 26 *Ann. Plastic Surgery* 556, 556 (2016) (plastic surgery-related mortality rate of 40 per 100,000); Michelle M. Chen et al., *Safety of Adult Tonsillectomy: A Population-Level Analysis of 5968 Patients*, *JAMA Otolaryngol Head Neck Surg* 197, 197 (2014) (adult tonsillectomy-related mortality of 30 per 100,000).

<sup>11</sup> See Elizabeth G. Raymond & David A. Grimes, *The Comparative Safety of Legal Induced Abortion and Childbirth in the United States*, 119 *Obstetrics & Gynecology* 215, 216 (2012).

203. Relatedly, the United States has the highest maternal mortality rate among developed nations, and the risks from pregnancy and childbirth are particularly acute in Missouri.<sup>12</sup> Whereas the national average rate for maternal mortality was a depressing 19.3 maternal deaths per 100,000 live births from 2016–2020, the rate in Missouri was more than 20% higher.<sup>13</sup> And the maternal mortality rate for Black women in Missouri during that period was a staggering 354% higher than the national average.<sup>14</sup>

204. Additionally, many patients seek abortion care because of health issues that are caused or exacerbated by their advancing pregnancies but that may not fit within the Total Abortion Ban’s and Gestational Age Bans’ affirmative defenses for a “medical emergency” necessitating an “immediate” abortion to save the patient’s life or prevent substantial and irreversible impairment of a major bodily function. *See* §§ 188.015(7), .017(3), .056(1), .057(1), .058(1), .375(3), RSMo. For example, patients may seek abortions because of (i) maternal health conditions that get progressively worse and more dangerous during pregnancy rather than risk waiting until the threat is deemed sufficiently immediate and the harm from them may have already occurred, (ii) newly diagnosed medical conditions that cannot be aggressively treated without risking harm to the fetus, or (iii) medical conditions that arise during and are related to the pregnancy itself. Other patients may receive a diagnosis that their fetus has a severe or potentially deadly medical condition that would make life extremely difficult, painful, and short. Other patients may be in violent or abusive relationships, in which carrying to term will tether

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<sup>12</sup> America’s Health Rankings, Maternal Mortality, [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/maternal\\_mortality\\_c/state/MO](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/maternal_mortality_c/state/MO) (2022).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*



them (and any children they might have) to their abuser. Still others may be suffering trauma from rape or incest or other violent abuse that is only exacerbated by their advancing pregnancies. Denying these individuals abortion care threatens their health—both physical and emotional—as well as their safety.

205. Denial of abortion care also has devastating implications for individuals' financial well-being, job security, workforce participation, and educational attainment. Studies show that unplanned births significantly reduce women's participation in the labor force, and the inability to obtain an abortion undermines career aspirations and achievement.<sup>15</sup> By contrast, access to abortion has enabled people to invest more in their professional development and careers, allowing women to complete high school and higher levels of education, thus improving their labor-force participation and securing their economic independence.<sup>16</sup> After legalization in the 1970s permitted greater access to abortion, women—particularly Black women—experienced significant increases in school-graduation and employment rates.<sup>17</sup>

206. Pregnant individuals who are able to obtain an abortion are also less likely to experience economic hardship and insecurity than those who are denied an abortion.<sup>18</sup> Compared to women who obtained abortion care, those who were denied that care and subsequently gave

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<sup>15</sup> Ana Nuevo-Chiquero, *The Labor Force Effects Of Unplanned Childbearing*, 29 *Labour Economics* 91, 91 (2014); Ushma D. Upadhyay et al., *The effect of abortion on having and achieving aspirational one-year plans*, 15 *BMC Women's Health* 102, 102 (2015).

<sup>16</sup> Anna Bernstein & Kelly M. Jones, Ctr. on the Econ. of Reprod. Health, *The Economic Effects of Abortion Access: A Review of The Evidence* (2019), [https://iwpr.org/wp-content/uploads/2020/07/B379\\_Abortion-Access\\_rfinal.pdf](https://iwpr.org/wp-content/uploads/2020/07/B379_Abortion-Access_rfinal.pdf).

<sup>17</sup> *Id.*

<sup>18</sup> Diana Greene Foster et al., *Socioeconomic Outcomes of Women Who Receive and Women Who Are Denied Wanted Abortions in the United States*, 108 *Am. J. Pub. Health* 407, 412 (2018).

birth were nearly four times more likely to live below the federal poverty line and less likely to have a full-time job several months later.<sup>19</sup> Women living in states with greater access to reproductive-health services, such as Medicaid coverage of abortion, have been found to have higher median wages, be more likely to advance in their careers, and be more likely to work full-time rather than part-time jobs.<sup>20</sup> Moreover, studies show that being denied an abortion increases by 78% the amount of debt 30 days or more past due; and being denied an abortion increases by 81% the rate of negative public records, such as bankruptcies and evictions.<sup>21</sup>

207. The risks to individuals' economic security from being denied an abortion are particularly severe in Missouri, given the state's existing failures to provide adequate support for women and families. In 2021, Missouri ranked 38th in poverty (meaning that 37 states had lower poverty rates) for women aged 18-54,<sup>22</sup> and women of color in Missouri are more likely to live in poverty than are their white counterparts.<sup>23</sup> Missouri also ranked 41st in food insecurity nationwide in 2019–2021 (meaning that 40 states had lower food insecurity),<sup>24</sup> and as of 2021,

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<sup>19</sup> *Id.* at 409-11.

<sup>20</sup> Kate Bahn et al., Ctr. For Am. Progress, *Linking Reproductive Health Care Access to Labor Market Opportunities for Women* 13-17, 18 (2017), [https://cdn.americanprogress.org/content/uploads/2017/11/16060404/110817\\_Reprorightsecopportunity-Report1.Pdf?Ga=2.84593433.1649302871.1631567668-707221933.1627661740](https://cdn.americanprogress.org/content/uploads/2017/11/16060404/110817_Reprorightsecopportunity-Report1.Pdf?Ga=2.84593433.1649302871.1631567668-707221933.1627661740).

<sup>21</sup> Sarah Miller et al., *The Economic Consequences of Being Denied an Abortion*, Nat'l Bureau of Econ. Research Working Paper Series (Rev. Jan. 2022), [https://www.nber.org/system/files/working\\_papers/w26662/w26662.pdf](https://www.nber.org/system/files/working_papers/w26662/w26662.pdf).

<sup>22</sup> U.S. Census Bureau, 2021 American Community Survey 1-year estimates, <https://www.census.gov/programs-surveys/acs/>.

<sup>23</sup> 2021 American Community Survey (ACS), accessed through Steven Ruggles, Sarah Flood, Sophia Foster, Ronald Goeken, Jose Pacas, Megan Schouweiler and Matthew Sobek, *Integrated Public Use Microdata Series USA (IPUMS USA): Version 11.0* (Minneapolis: University of Minnesota, 2023), <https://doi.org/10.18128/D010.V11.0>.

<sup>24</sup> *America's Health Rankings 2022 Annual Report*, United Health Foundation, <https://www.americashealthrankings.org/learn/reports/2022-annual-report>.

the most recent year for which data is available, Missouri ranked 37th in its uninsurance rate (meaning 36 states had lower uninsurance rates) for women aged 19-54 nationwide.<sup>25</sup> Although Missouri has since expanded Medicaid, it has not yet extended postpartum Medicaid coverage to 12 months, an option under the American Rescue Plan Act. As a result, many women still lose their health coverage after just 60 days postpartum.<sup>26</sup> Missouri also ranks in the bottom half of states nationwide for working women.<sup>27</sup> Missouri has no laws requiring paid or unpaid family or sick leave beyond what the federal Family Medical Leave Act provides.<sup>28</sup> Women make up over 66% of the low-wage workforce in Missouri, even though they are less than half the workforce overall.<sup>29</sup> Women in Missouri also typically make \$0.80 for every dollar paid to men—less than the national average—and that amount is substantially lower for Black, Native American, and Latina women.<sup>30</sup>

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<sup>25</sup> U.S. Census Bureau, 2021 American Community Survey 1-year estimates, <https://www.census.gov/programs-surveys/acs/>.

<sup>26</sup> Kaiser Family Found., Medicaid Postpartum Coverage Extension Tracker, <https://www.kff.org/medicaid/issue-brief/medicaid-postpartum-coverage-extension-tracker/> (last published Dec. 8, 2022).

<sup>27</sup> Oxfam, Best and Worst States for Working Women 2022, <https://www.oxfamamerica.org/explore/countries/united-states/poverty-in-the-us/best-states-for-working-women-2022/> (last accessed Dec. 8, 2022).

<sup>28</sup> Missouri Dep't of Labor & Industrial Rel., Illness and FMLA Protections, <https://labor.mo.gov/dls/general/illness-FMLA-protection> (last accessed Dec. 8, 2022); *id.* Vacation Pay and Sick Leave, <https://labor.mo.gov/dls/general/vacation-sick-leave>.

<sup>29</sup> Nat'l Women's Law Ctr., Women in the Low-Wage Workforce By State (2018), <https://Nwlc.Org/Wp-Content/Uploads/2018/06/Women-InLow-Wage-Workforce-By-State-2018-1.pdf>.

<sup>30</sup> Nat'l Women's Law Ctr., The Wage Gap, State by State, <https://nwlc.org/resource/wage-gap-state-by-state/> (Sept. 16, 2022).

208. Being denied access to abortion care will only compound economic insecurity for many. The vast majority—approximately 75%—of abortion patients nationwide have an income below the federal poverty line or between 100 and 199% of the federal poverty level.<sup>31</sup> For those forced to carry a pregnancy to term, childbirth expenses alone may reach tens of thousands of dollars,<sup>32</sup> and those without health insurance may bear these costs in their entirety. The total costs of raising a child are substantial also, accounting for, on average, 27% of low-income families' gross income.<sup>33</sup> Child care expenses are one of the biggest contributors to these costs. For example, the price of full-time, center-based infant care in Missouri is \$10,555, amounting to 36.3% of the median income for single parents in the state. The child care needed to be able to work outside the home is therefore simply out of reach for many.<sup>34</sup> And harms from being forced to carry a pregnancy to term falls most acutely on those who are already struggling to make ends meet.

209. By enacting the Challenged Provisions, Missouri officials have imposed their religious beliefs on all Missourians who can become pregnant, jeopardizing their health, lives, economic security, and equality.

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<sup>31</sup> Guttmacher Inst., *Induced Abortion in the United States* (Sept. 2019), <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>.

<sup>32</sup> See Truven Health Analytics, *The Cost of Having a Baby in the United States* 6 (2013), <https://www.Nationalpartnership.org/our-work/resources/health-care/maternity/archive/the-cost-of-having-a-baby-in-the-us.pdf>.

<sup>33</sup> Mark Lino et al., U.S. Dep't of Agric., *Expenditures on Children by Families, 2015*, at 15 (2017), [https://fnsprod.azureedge.net/sites/default/files/crc2015\\_March2017\\_0.pdf](https://fnsprod.azureedge.net/sites/default/files/crc2015_March2017_0.pdf).

<sup>34</sup> ChildCare Aware, *Price of Care: 2021 Child Care Affordability Analysis*, Appx XIII: 2021 Ranking of Affordability of Center-Based Care for Single-Parent Households, <https://www.childcareaware.org/catalyzing-growth-using-data-to-change-child-care/#ChildCareAffordability>.

## DEFENDANT CLASS ALLEGATIONS

210. The named-defendant Prosecuting and Circuit Attorneys are member of the class of Circuit and Prosecuting Attorneys in Missouri.

211. They, and all class members, have authority to enforce the criminal provisions of the Total Abortion Ban, Gestational Age Bans, 72-Hour Delay, Same-Physician Requirement, and Medication Abortion Restrictions, §§ 188.017(1), .056(1), .057(1), .058(1), .375(3), (6), RSMo, and to prosecute any alleged offenders or seek injunctive relief against any abortion providers who knowingly violate the Challenged Provisions, thus barring these doctors from providing the care in the future. *See id.* § 188.075(3).

212. Any violation of the Total Abortion Ban or Gestational Age Bans is a class B felony punishable by at least five—and up to 15—years in prison, as well as suspension or revocation of one’s license. *Id.* §§ 188.017(2), .056(1), .057(1), .058(1), .375(3), 558.011(1)(2). Violations of the 72-Hour Delay, Same-Physician Requirement, and Medication Abortion Restrictions are class A misdemeanors.

213. There are 115 prosecuting attorneys’ offices in Missouri—one for each of the 114 counties, plus the City of St. Louis (which is a city not within a county). The members of the prospective defendant class are therefore so numerous that joinder of them all would be impracticable.

214. The Challenged Provisions authorize and empower the prospective defendant class to engage in conduct implicating Plaintiffs’ constitutional rights, so there is a common nucleus of operative facts and law.

215. Any defenses that could be raised by the named class representatives would have the same essential characteristics as the defenses of the defendant class as a whole.

216. The named class representatives will fairly and adequately protect the interests of the prospective defendant class.

217. The named class representatives and the members of the prospective defendant class have the authority and responsibility under Missouri law to enforce within their jurisdictions the Challenged Provisions.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Violation of Article I, Section 5 of the Missouri Constitution**

218. The paragraphs above are incorporated as if fully set forth here.

219. Article I, Section 5 of the Missouri Constitution prohibits the establishment of any official religion or the coercion of any person to participate in prayer or other religious activities.

220. Specifically, Article I, Section 5 provides “that no human authority can control or interfere with the rights of conscience,” that “to secure a citizen’s right to acknowledge Almighty God according to the dictates of his or her own conscience, neither the state nor any of its political subdivisions shall establish any official religion,” and that “the state shall not coerce any person to participate in any prayer or other religious activity.” Mo. Const. art. I, § 5.

221. By establishing in law and imposing on Missourians a specific religion’s beliefs about abortion and about the beginning of life, the Challenged Provisions and their implementing regulations violate Article I, Sections 5 of the Missouri Constitution for the following reasons, among others:

- The Challenged Provisions and their implementing regulations expressly and in practical effect establish in law, implement, and authorize enforcement of particular religious beliefs, interfering with Plaintiffs’ freedom of religion and

coercing them to adhere to religious requirements of a faith that is not their own.

- The Challenged Provisions and their implementing regulations establish an official preference for a particular faith and set of religious beliefs and compel Plaintiffs to support and adhere to that officially favored system of religious beliefs and the ministers and teachers of it.

222. By violating Article I, Section 5 of the Missouri Constitution, Defendants have injured Plaintiffs and threaten continuing and future injury to them as Missouri residents and taxpayers, and by placing Plaintiff Rev. Gordon in substantial risk of future harm from pregnancy.

**COUNT II**  
**Violation of Article I, Section 6 of the Missouri Constitution**

223. The paragraphs above are incorporated as if fully set forth here.

224. Article I, Section 6 of the Missouri Constitution prohibits the State from compelling any person to erect, support, or attend any place or system of worship, or to maintain or support any priest, minister, preacher, or teacher of any sect, church, creed, or religious denomination.

225. By establishing in law and imposing on Missourians a specific religion's beliefs about abortion and about the beginning of life, the Challenged Provisions and their implementing regulations violate Article I, Section 6 of the Missouri Constitution for the following reasons, among others:

- The Challenged Provisions and their implementing regulations establish in law, implement, and authorize enforcement of particular religious beliefs,

interfering with Plaintiffs’ freedom of religion and coercing them to adhere to religious requirements of a faith that is not their own.

- The Challenged Provisions and their implementing regulations expressly and in practical effect establish in law and implement an official preference for a particular faith and set of religious beliefs and compel the Plaintiffs to support and adhere to that officially favored religion and system of religious beliefs and the ministers and teachers of it.
- The Challenged Provisions and their implementing regulations violate the strict separation of religion and government mandated by the Missouri Constitution as recognized by the Supreme Court of this State.

226. By violating Article I, Section 6 of the Missouri Constitution, Defendants have injured Plaintiffs and threaten continuing and future injury to them as Missouri residents and taxpayers, and by placing Plaintiff Rev. Gordon in substantial risk of future harm from pregnancy.

**COUNT III**  
**Violation of Article I, Section 7 of the Missouri Constitution**

227. The paragraphs above are incorporated as if fully set forth here.

228. Article I, Section 7 of the Missouri Constitution provides that “no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister, or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect or creed of religion or any form of religious faith or worship.” Mo. Const. art. I, § 7.



229. By establishing in law and imposing on Missourians a specific religion's beliefs about abortion and about the beginning of life, the Challenged Provisions and their implementing regulations violate Article I, Section 7 of the Missouri Constitution, for the following reasons, among others:

- The Challenged Provisions and their implementing regulations expressly and in practical effect establish an official preference for a particular faith and set of religious beliefs and compel Plaintiffs to support and adhere to that officially favored system of religious beliefs and the ministers and teachers of it.
- The State's imposition, administration, and enforcement of the Challenged Provisions and their implementing regulations involve taking money from the public treasury and using it in aid of a church, sect, denomination, religion, and set of religious teachings.

230. By violating Article I, Section 7 of the Missouri Constitution, Defendants have injured Plaintiffs and threaten continuing and future injury to them as Missouri residents and taxpayers.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs ask this Court to:

- A. Issue a permanent injunction barring Defendants from enforcing the Challenged Provisions and their implementing regulations;
- B. Enter a judgment declaring that the Challenged Provisions and their implementing regulations violate Article I, Sections 5, 6, and 7 of the Missouri Constitution;

- C. Grant the equitable remedy of recoupment to the State of all monies expended in connection with the Challenged Provisions;
- D. Award Plaintiffs attorneys' fees and costs; and,
- E. Grant such other and further relief as the Court deems just and proper.

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Michelle Banker\*  
Sunu Chandy\*  
Christen Hammock Jones\*  
Veronica Faison\*  
National Women's Law Center  
11 Dupont Circle NW, Suite 800  
Washington, DC 20036  
Tel: (202) 588-7620  
[mbanker@nwlc.org](mailto:mbanker@nwlc.org)

John A. Freedman\*  
Matthew Tabas\*  
Annie Blackman\*  
Arnold & Porter Kaye Scholer LLP  
601 Massachusetts Avenue, N.W  
Washington, DC 20001  
Tel: (202) 942-5000  
[John.Freedman@arnoldporter.com](mailto:John.Freedman@arnoldporter.com)

Respectfully submitted,

/s/ Denise D. Lieberman

Denise D. Lieberman MBE #47013  
P.O. Box 56574  
St. Louis, MO 63156  
Tel: (314) 780-1833  
[denise@deniselieberman.com](mailto:denise@deniselieberman.com)

Richard B. Katskee\*  
Kalli A. Joslin\*  
Catherine M. Feuille\*  
Americans United for Separation  
of Church and State  
1310 L Street NW, Suite 200  
Washington, DC 20005  
Tel: (202) 466-3234  
[katskee@au.org](mailto:katskee@au.org)

Kent A. Yalowitz\*  
Arnold & Porter Kaye Scholer LLP  
250 West 55th Street  
New York, NY 10019-9710  
Tel: (202) 836-8000  
[Kent.Yalowitz@arnoldporter.com](mailto:Kent.Yalowitz@arnoldporter.com)

\* pro hac vice motion forthcoming