THE SUPREME COURT OF IOWA

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Supreme Court No. 17-1579
Polk County District Court No. EQCE081503

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PLANNED PARENTHOOD OF THE HEARTLAND, INC., and DR. JILL MEADOWS, M.D.,
Petitioners-Appellants,

v.

KIMBERLY REYNOLDS ex rel. STATE OF IOWA AND IOWA BOARD OF MEDICINE,
Respondents-Appellees.

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APPEAL FROM THE IOWA DISTRICT COURT FOR POLK COUNTY
Decision of the Honorable Jeffrey D. Farrell

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# BRIEF OF *AMICUS CURIAE* ON BEHALF OF IOWA COALITION AGAINST DOMESTIC VIOLENCE, ET AL., in support of Petitioners-Appellants*

*conditionally filed in final form

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## INTEREST OF *AMICI CURIAE*

*Amici curiae* are organizations committed to ensuring that women are able to make their own decisions about their lives, including whether to obtain an abortion, without undue interference. Therefore, *Amici* have an important interest in the outcome of this case. *Amici* write to highlight the negative impact of Section 1 of Senate File 471 (2017) (to be codified at Iowa Code § 146A.1) (the "Act") on Iowa women—with a particular focus on rural women, low-income women and women working low-wage jobs, sexual assault survivors, women in abusive relationships, and women seeking medication abortion either for deeply personal reasons or because it is medically indicated based on their unique health circumstances—for whom the barriers imposed by the Act will make it harder or in some cases impossible to access abortion services. *Amici* also write to describe the serious adverse consequences the Act would have on women's economic security and future wellbeing.

The **Iowa Coalition Against Domestic Violence (ICADV)** is a state level non-profit organization representing 21 local programs providing direct services to survivors of domestic violence. ICADV provides training and technical assistance to member programs, and strives to engage all people in changing social and institutional contexts that perpetuate relationship

violence. Member programs served approximately 30,000 domestic violence survivors last year. Reproductive coercion is an element of relationship violence that occurs when a partner uses intimidation, threats, or violence to impose his intentions upon a woman's reproductive autonomy. Victims of relationship violence have an acute need for timely access to reproductive health services, especially abortion care. Enacting barriers to timely access to abortion services often subjects women to increasing levels of violence.

The **Iowa Coalition Against Sexual Assault (IowaCASA)** is a statewide organization comprising 25 agencies that provide assistance to 10,000 victims of sexual assault annually. IowaCASA focuses on improving the programs and services available to sexual assault survivors, and supporting communities to prevent sexual violence before it occurs. The trauma of sexual violence is caused by the loss of power and control over one's body—one's most intimate self. Sexual assault can result in physical and mental health challenges, including injuries and disease related to the assault, shame, terror, depression, guilt, anxiety, addiction, and post-traumatic stress.

Founded in 1996, the **Interfaith Alliance of Iowa** is a statewide, non-partisan organization working to protect both faith and freedom in Iowa. Interfaith Alliance of Iowa celebrates religious freedom by championing the

rights of individuals, promoting policies that protect both religion and democracy, and empowering diverse voices to challenge extremism. Interfaith Alliance of Iowa believes it is imperative that, in a healthy democracy, respect is shown for the religious freedom and beliefs of every person and that this is best promoted by maintaining a healthy separation between church and state. Interfaith Alliance of Iowa is made up of people of faith and of no faith from across Iowa who believe in protecting religious freedom, respecting individual rights, and uniting the diverse voices across our state for the common good. Interfaith Alliance of Iowa are Christians, Unitarian Universalists, Jews, Muslims, Sikhs, Hindus, Buddhists, atheists, agnostics, and more. The Interfaith Alliance of Iowa's beliefs intersect with many issues of civic life and policy including support of religious freedom without it being used to discriminate, civil and human rights, equality, and judicial independence. The arguments that threaten women's reproductive rights are almost exclusively made from a moralistic, religiously driven position. Interfaith Alliance of Iowa has a long history of advocating for the "separation of church and state" so that no one religious belief or voice can insert its beliefs into public policy and infringe on the rights of others. Interfaith Alliance of Iowa believes that a woman's civil rights regarding her body and healthcare decisions must be safeguarded.

The **National Women's Law Center (NWLC)** is a non-profit legal organization that has been working since 1972 to advance and protect women's legal rights. NWLC focuses on issues of key importance to women and their families, including economic security, employment, education, health, and reproductive rights, with special attention to the needs of low-income women and those who face multiple and intersecting forms of discrimination. Because the ability to decide whether to bear children is of tremendous significance to women's full equality, NWLC seeks to preserve women's right to safe, legal abortion, and has filed or participated in numerous *amicus* briefs in state and federal courts in cases that affect this right.

No party's counsel authored this brief in whole or in part, nor contributed money to fund the preparation or submission of this brief. No person other than the *Amici* and Counsel have contributed anything to fund the preparation or submission of this brief.

## INTRODUCTION AND SUMMARY OF ARGUMENT

In this action, Petitioners Planned Parenthood of the Heartland, Inc. ("PPH") and Dr. Jill Meadows ask the Court to stay enforcement of Section 1 of Senate File 471 (2017) (to be codified at Iowa Code § 146A.1) (the "Act"), requiring PPH and other abortion providers to "obtain written certification from the pregnant woman" that she has undergone an ultrasound and received state-mandated information about the alternatives to abortion at least seventy-two hours prior to receiving an abortion. S.F. 471, § 1 (2017) (to be codified at Iowa Code § 146A.1(1)). The Act will force women in Iowa to make an additional and medically unnecessary trip to a health center to receive critical health care services.

If enforced, the extreme mandatory delay imposed by the Act will impose serious and sometimes insurmountable barriers on Iowa women, including forcing some women to travel hundreds of miles roundtrip to obtain an abortion, and increasing indirect costs such as transportation, child care, and lost wages. Some women will be forced to endure these burdens twice, if they are unable to make the first appointment at a health care provider closer to home. Whether a woman is forced to make two trips to an abortion provider or a trip to health care provider and then another to an abortion provider, this requirement will have a significant negative impact

on Iowa women who already face considerable challenges obtaining health care, including rural women, women living in poverty and women working low-wage jobs, sexual assault survivors, women experiencing intimate partner violence, and women who may prefer medication abortion to surgical abortion for profoundly personal reasons or because it is necessary for their health. For some women, these burdens will be insurmountable and they will be forced to carry the pregnancy to term. The Act will have significant consequences for Iowa women's equality, economic security, and ability to care for their families.

## I. The Act infringes upon a woman's protected right to decide whether to terminate her pregnancy in violation of the Iowa Constitution, threatening the health and safety of women who have decided to have an abortion.

The Act will inflict serious harm on a woman's constitutionally protected right to decide whether to terminate her pregnancy. Indeed, the U.S. Supreme Court has specifically cited several of the burdens caused by the Act and enumerated by *Amici*, below, as factors to consider when determining whether restrictions on a woman's right to abortion constitute an undue burden. For example, the Court has identified travel distances, the particular burdens two trip requirements pose for "poor, rural, or disadvantaged women" and "those who have difficulty explaining their whereabouts to husbands, employers, or others," safety and confidentiality

concerns for women in abusive relationships, and lack of health benefits of a restriction or threats to patient safety caused by a restriction as burdens that are relevant to an abortion restriction's constitutionality. Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292, 2302, 2313, 2318 (2016); Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 853, 886, 894-98 (1992). As in those cases, the restriction here will disproportionately harm those women who already face significant barriers to obtaining health care. The Act may even force women to forgo abortion altogether. As a result, the Act will threaten Iowa women's equality, economic security, and ability to care for their families.

### A. The Act will disproportionately harm women who already face significant barriers to obtaining health care.

The Act's mandatory seventy-two-hour delay and the delays caused by an additional trip to a health care provider impose difficulties and threaten harm to all women in Iowa who are seeking an abortion. For example, delays in accessing abortion care increase the risk of complications[1] and also the expense.[2]

[1] Although abortion is very safe, it is invasive and the risk of complications increases with each week of pregnancy. Bonnie Scott Jones & Tracy A. Weitz, Legal Barriers to Second-Trimester Abortion Provision and Public Health Consequences, 99 Am. J. Pub. Health 623, 623 (2009).

[2] The median cost of a first-trimester abortion in the United States is $490, with a range between $225 and $750. The median cost for an abortion

But it is women in Iowa who already face significant barriers to obtaining health care upon whom these burdens will fall hardest. This includes women living in rural areas, women living in poverty and working low-wage jobs, women who are survivors of sexual assault, women experiencing intimate partner violence, and women who may prefer medication abortion for profoundly personal reasons or for their health.

**1. The Act will impose substantial burdens on rural Iowa women.**

The Act presents unique obstacles for the 35% of Iowa's population who live in rural areas.[3] Approximately 89% of Iowa counties have no abortion provider and 42% of Iowa women live in those counties.[4] The Act will force many of these women to travel long distances, multiple times, in order to access abortion. Increased travel often leads to increased delay. For example, in a study of nearly 400 patients in a much-less-rural area in California, up to 10% of women who obtained a delayed abortion reported

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between 14 and less than 20 weeks is $750, with a range of $490 to $1,500. Sarah C.M. Roberts et al., Out-of-Pocket Costs and Insurance Coverage for Abortion in the United States, 24 Women's Health Issues e211, e214 (2014).

[3] Iowa Quick Facts, State Data Center of Iowa (last updated Apr. 7, 2014 9:20 AM), http://www.iowadatacenter.org/quickfacts.

[4] Rachel K. Jones & Jenna Jerman, Abortion Incidence and Service Availability in the United States, 2014, 49 Persp. Sexual & Reprod. Health 17, 23 (2017).

that difficulties in travel contributed to the delay.[5] In addition, the percentage of women able to obtain an abortion decreases the farther they have to travel to reach an abortion provider.[6] The increased delay resulting from the two-trip requirement imposed by the Act will not only limit the number of women who are able to obtain an abortion, especially in a rural state like Iowa, but will also lead to myriad collateral consequences, as discussed in more detail below, that may prevent women from receiving care and jeopardize their health.

**2. The Act will increase barriers to care for women living in poverty and women working low-wage jobs.**

The Act will not only increase the travel many women will have to undertake to receive an abortion, but also the financial burdens posed by the indirect costs of abortion care—including transportation, child care, and lost wages. This is especially harmful for women in Iowa living in poverty.[7] Nearly 13% of women in Iowa live in poverty and the rates of poverty in Iowa are even higher for minority women—37% of Black women, 26% of

[5] Diana G. Foster et al., Predictors of Delay in Each Step Leading to an Abortion, 77 Contraception 289, 292 (2007).
[6] See, e.g. Daniel Grossman et al., Change in Abortion Services After Implementation of a Restrictive Law in Texas, 90 Contraception 496 (2014) (discussing the effect of clinic closures in Texas on women's access to abortion).
[7] National Women's Law Center, Poverty Rates by State, 2015 (September 2016), https://nwlc.org/wp-content/uploads/2016/09/Poverty-State-by-State-2016-2.pdf.

Latinas, 17% of Asian women, and 29% of Native women in Iowa live in poverty.[8] And PPH data presented at trial shows that the poverty rate among its patients in Iowa is substantially higher than even those percentages: more than half of PPH's patients have incomes at or below 110% of the federal poverty guideline. The additional financial burdens imposed by the Act will have real consequences for these PPH's patients, forcing some to forgo basic necessities to raise money for the procedure.[9] Others may be forced to delay the procedure until a later stage of pregnancy, when an abortion may be more expensive and more complicated.[10] In a nationally representative study, over a quarter of women obtaining later abortions report that the need to save money for the procedure contributed to the delay.[11] The added burdens and expenses imposed by the Act will be insurmountable for some women, forcing them to forgo having an abortion.

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[8] Id.

[9] See, e.g., Maryam Guiahi & Anne Davis, First-Trimester Abortion in Women with Medical Conditions, 86 Contraception 622, 625 (2012).

[10] Heather D. Boonstra, et. al., Guttmacher Inst., Abortion in Women's Lives 15-17 (2006), available at http://www.guttmacher.org/pubs/2006/05/04/AiWL. pdf.

[11] Lawrence B. Finer et al., Timing of Steps and Reasons for Delays in Obtaining Abortions in the United States, 74 Contraception 334, 341–42 (2006).

These costs also take their toll on the 20% of Iowa women who work in low-wage jobs,[12] which do not typically offer any benefits, such as paid time off, and often do not have fixed schedules.[13] Women in low-wage jobs may be given their schedule only a few days in advance and may not be allowed to request particular days off or ask for changes.[14] This can make it extremely hard or even impossible to schedule an appointment weeks in advance, arrange for travel and child care, find someone to go with them to the appointment, get time off from work, miss a day's pay or more, and explain why they need to travel or miss work in order to get an abortion—let alone do all of that twice.

**3. The Act will inflict particular harm upon women who have become pregnant as a result of sexual assault and have decided to have an abortion.**

The Act is particularly cruel as applied to women who become pregnant as a result of rape. According to the National Intimate Partner and Sexual Violence Survey, 19% of women in Iowa—an estimated 225,000

[12] National Women's Law Center, Underpaid and Overloaded: Women in Low-Wage Jobs 25 (2014) available at http://www.nwlc.org/sites/default/files/pdfs/final_nwlc_lowwagereport2014.pdf.

[13] Id. at 3 (citing Claudia Williams et al., 44 Million U.S. Workers Lacked Paid Sick Days in 2010: 77 Percent of Food Service Workers Lacked Access, Institute for Women's Policy Research, (Jan. 2011), http://www.iwpr.org/publications/pubs/44-million-u.s.-workers-lacked-paid-sick-days-in-2010-77-percent-of-food-service-workers-lacked-access).

[14] Id.

women—have been raped.[15] If a survivor decides she cannot go through with a pregnancy resulting from a crime, and decides to have an abortion, she needs access to timely health care. Because Iowa is a rural state and resources are not available in many communities, not all survivors have access to local health care or the resources to travel to receive an abortion. In working with survivors, *Amici* have seen individuals who must take time off work or school and ride a bus, alone, for several hours in order to receive an abortion. Others have been transported by parents, who take time off work to transport a daughter who is pregnant as a result of a rape. If a married couple has struggled together to make this difficult decision, they both travel. Survivors, as they travel, are inevitably reminded of the rape. Requiring a seventy-two-hour mandatory delay and two long-distance trips exacerbates the distress survivors already feel as a result of the crime and the resulting pregnancy.

**4. The Act jeopardizes the safety of women experiencing intimate partner violence.**

The Act would make accessing abortion more difficult and dangerous for women experiencing intimate partner violence. There were 5,625

[15] National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention, The National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 State Report 33 (2017), available at https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf.

reported instances of intimate partner violence against women in Iowa in 2009, the most recent year for which data are available.[16] Women in small rural towns in Iowa are more likely than other women to experience intimate partner violence and the violence becomes more severe the more geographically isolated a woman is.[17] Among Iowa women who reported intimate partner violence, 61.5% of isolated rural women reported four or more events of physical violence in the past year compared with 39.3% of urban women.[18] Iowa women living in rural areas also have fewer domestic violence intervention programs available to them and have to travel farther to obtain help.[19]

The Act's mandatory delay and resulting two-trip requirement impose unique burdens on women experiencing intimate partner violence, who are often more in need of the procedure. Women in abusive relationships are more likely to experience an unintended pregnancy than other women.[20]

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[16] Iowa Dep't of Pub. Safety, 2009 Iowa Uniform Crime Report 125 (2009) available at http://www.dps.state.ia.us/commis/ucr/2009/2009_UCR_Table_16_DMVChar.pdf.

[17] Corinne Peek-Asa et al., Rural Disparity in Domestic Violence Prevalence and Access to Resources, 20 J. Women's Health 1743, 1745 (2011).

[18] Id.

[19] Id. at 1746.

[20] Elizabeth Miller et al., Reproductive Coercion: Connecting the Dots Between Partner Violence and Unintended Pregnancy, 81 Contraception 457, 457–58 (2010).

Abusive partners may engage in "reproductive coercion"—behaviors, such as interfering with contraception, intended to promote pregnancy.[21] In one study, 8% of women seeking an abortion reported they did so because of an abusive partner.[22] A 40-year-old woman in that study stated, "Our relationship became violent and I couldn't see bringing another kid into a life that was going to be surrounded by violence."[23] Another woman echoed this sentiment. "I didn't want to [raise a child] by myself. I couldn't and the man was abusive and horrible."[24]

Not surprisingly, women reported that having a child with an abusive partner would make it harder for them to leave the abusive relationship.[25] According to one woman, "I was trying to leave an abusive relationship and I didn't want to have any ties."[26] This woman's concerns were well-founded. Among women seeking an abortion, the chance of experiencing violence decreases if they have an abortion but remains the same if they do

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[21] Id.
[22] Karuna S Chibber et al., The Role of Intimate Partners in Women's Reasons for Seeking Abortion, 24 Women's Health Issues e131, e134 (2014).
[23] Id.
[24] M. Antonia Biggs et al., Understanding Why Women Seek Abortions in the U.S. at 7.
[25] Id.
[26] Id.

not.[27] Women denied an abortion remain tethered to the abusive man and at risk for continued violence, even if they are able to end the relationship.[28]

Yet, obtaining an abortion can be especially difficult for women in abusive relationships. Abusive partners often engage in controlling behaviors such as isolating women from family and friends, keeping track of a woman's whereabouts and phone calls, and controlling access to money or otherwise limiting her movements.[29] Finding a safe window to travel for services at a time when their abuser is not intensely supervising and controlling their time and mobility is difficult. Service providers in rural Iowa communities report that these opportunities are especially few and far between and the lack of access to transportation compounds the difficulty—thus, making even one trip to a provider adds an enormous burden to an already difficult endeavor. Many of *Amici*'s clients experiencing intimate partner violence also lack independent access to money. Saving money that

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[27] Sarah C.M. Roberts et al., Risk of Violence From the Man Involved in the Pregnancy After Receiving or Being Denied an Abortion, 12 BMC Medicine 1, 5-6 (2014).
[28] Id. at 5.
[29] Joan B. Kelly & Michael P. Johnson, Differentiation Among Types of Intimate Partner Violence: Research Update And Implications for Interventions, 46 Family Court Review 477, 481 (2008) (describing "coercive controlling violence" as including "intimidation; emotional abuse; isolation; minimizing, denying and blaming; use of children; asserting male privilege; economic abuse; and coercion and threats") (internal citations omitted).

the abuser will not miss can mean weeks or months of putting away small amounts of cash so they have enough money to pay for the procedure and additional costs such as travel and child care. The Act's mandatory delay and resulting two-trip requirement increase the expense for survivors, making it even more difficult to procure the necessary funds.

Taking two trips to a health care provider also increases the likelihood that the abusive partner or others will discover that a woman is having an abortion—possibly subjecting her to further violence or preventing her from receiving care. In *Amici*'s experience, even before the mandatory delay, overcoming the barriers to accessing abortion delayed the ability of women experiencing intimate partner violence to access care until later in their pregnancies and increased their risk for harm from an abusive partner. And too often, the burdens were too much to overcome. Either because of lack of money, inability to get away undetected, or difficulty traveling, numerous clients returned to an abusive relationship and carried an unintended pregnancy to term.

The story of one of *Amici*'s Iowa clients is illustrative of the difficult and time sensitive nature of securing abortion care for women who are experiencing domestic violence. This client's partner took her to work, picked her up, and on pay day, required her to sign her check in front of him

and he took it to the bank. She had no access to transportation and had two young children. When she became pregnant, she asked for help in getting an abortion because she said that every time she became pregnant the physical violence increased and she was also worried about the safety of her children. Service providers worked with her to develop a safety plan, to help her save money, and assisted in arranging transportation. Her window of opportunity for lining everything up to obtain abortion care was very small. She successfully accessed care, but it would have been impossible under the requirements imposed by the Act.

Another client, "Client 2," had an entirely different outcome. She was working with a local program making plans to leave a violent relationship when she learned she was pregnant. She said she wanted to obtain an abortion and the service provider began planning. Unfortunately, the obstacles were too great—travel, money, no window of leaving undetected—and she ultimately returned to the abusive relationship she was trying to flee and carried an unwanted pregnancy to term. The burdens imposed by the Act could force many more Iowa women into situations like Client 2's, unable to secure care and thus unable to escape dangerous relationships from which they were making plans to leave.

### 5. The Act threatens Iowa women's ability to use medication abortion, which many women prefer and others need.

If enforced, the Act will harm women by jeopardizing access to medication abortion—which many women prefer and some women need. The mandatory delay imposed by the Act, and the supplementary delays that will result, may eliminate some women's option to use medication abortion—a time sensitive procedure—denying these women the right to select their preferred procedure, visit further trauma on survivors of sexual assault, impose unnecessary medical risks, and increase travel costs and delays on all women.

In general, women often have a strong preference for medication abortion[30] as opposed to surgical abortion, because medication abortion offers greater privacy and autonomy, is less invasive, and seems more "natural" than surgery.[31] For example, one woman describing her experience with medication abortion stated, "I was so thankful that there was an alternative to having a surgical abortion. And that was...my biggest

[30] Beverly Winikoff, Acceptability of Medical Abortion in Early Pregnancy, 27 Family Planning Perspectives 142, 148 (1995).
[31] Mitchell Creinin & Maureen Park, Acceptability of Medical Abortion with Methotrexate and Misoprostol, 52 Contraception 41, 42 (1995).

concern."[32] Another woman stated, "I was in my own home. I wasn't in a hospital bed or anything. . . . I was with my family. . . . My ex was there with me. My mom was there."[33] Women also report choosing medication abortion over surgical abortion because medication abortion allowed them to maintain control[34] and because it was easier for them to talk to a doctor in a more removed manner.[35]

Sexual assault survivors in particular may prefer medication abortion. Intimate exams and childbirth can trigger post-traumatic stress in sexual assault survivors.[36] Medication abortion is less invasive, allows women to have the abortion at home with the support of their families, allows them to talk to the doctor from afar, and gives them more control. By making medication abortion more difficult to access, the Act would leave sexual assault survivors without a vital option and might force them to undergo an

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[32] Stephen Fielding, Having an Abortion Using Mifepristone and Home Misoprostol: A Qualitative Analysis of Women's Experiences, 34 Persp. Sexual & Reprod. Health 34, 38 (2002).
[33] Id.
[34] M. Antonia Biggs et al., Understanding Why Women Seek Abortions in the U.S., 13 BMC Women's Health 1–13, 7 (2013).
[35] Kate Grindlay et al., Women's and Providers' Experiences with Medical Abortion Provided Through Telemedicine: A Qualitative Study, 23 Women's Health Issues e117, e120 (2012).
[36] Erica Sharkansky, Sexual Trauma: Information for Women's Medical Providers, National Center for PTSD (last updated Jan. 3, 2014), www.ptsd.va.gov/professional/treatment/women/ptsd-womens-providers.asp.

invasive procedure at a time when they most need to assert control over their lives.[37]

Access to medication abortion is also particularly important for women with pre-existing medical conditions for whom first-trimester surgical abortion is contraindicated. Medication abortion is preferred over surgical abortion for patients at risk of surgical and anesthetic complications.[38] Medication abortion may also be safer for extremely obese women and women with pelvic tumors that interfere with access to the cervix. It is also safer for women with orthopedic conditions, such as hip disease, because medication abortion does not require lithotomy positioning.[39]

This Act will deprive a significant number of women their method of choice and threaten others' health. Apart from these harms, a delay that pushes a woman past the gestational limit for medication abortion can force

[37] See, e.g. id. (for discussion of the importance of control to sexual assault survivors).
[38] Maryam Guiahi & Anne Davis, First-Trimester Abortion in Women with Medical Conditions at 625.
[39] Id.

her to undertake significantly increased travel in order to receive a surgical abortion.[40]

By imposing a mandatory delay, the Act could result in fewer women being able to access medication abortion when they are already facing what can be an extremely difficult decision. By denying access to a medical procedure that is best able to preserve a woman's health or allows her to regain control over her life, especially following a sexual assault, the Act severely compromises women's dignity and jeopardizes women's health and wellbeing.

It is important to acknowledge that women in Iowa face multiple intersecting and overlapping identities, life experiences, and barriers, which combine to compound the harms and burdens imposed by abortion restrictions such as the Act's seventy-two-hour mandatory delay. A recent experience of one of *Amici's* clients is illustrative of how an Iowa woman may fall into multiple categories identified above, and how the Act would harm her. "Client" is a single mother of five children. She relocated to Mason City, Iowa from a larger urban area out-of-state to escape an abusive husband. She got the fresh start she was looking for in Iowa. She found a

[40] Ushma D. Upadhyay et al., Denial of Abortion Because of Provider Gestational Age Limits in the United States, 104(9) Am. J. Public Health 1687 (2014).

safe house in a decent neighborhood. Her and her family's lives are much better in Iowa than in their old community, but she still struggles to make ends meet. She struggles to be a full-time parent without support from the father of the children. She struggles to fit in to the community. But she is determined to make a better life for her children. When she was faced with an unintended pregnancy, Client sought the help of *Amici*. When she arrived at *Amici*'s office, she was embarrassed, ashamed, and scared. But she knew she could not support another child. The father of the child wanted nothing to do with the child or with her. She considered adoption but after much soul searching decided that an abortion was the best option for her and her circumstances. She was able to secure the funds needed through a variety of local sources, found a friend that could watch her children after school, took the day off work (without pay), and found a friend to drive her to the clinic in Iowa City. She returned home later that night. Under the mandatory delay imposed by the Act, she would have had to make a second trip, which means she would have had to raise more funds, find child care on another day, take more time off of work, and find another ride to the clinic or a health care provider. Client could have been overcome by these burdens. Unable to obtain the abortion she decided to have, she and her family could have been forced over the edge into economic instability or poverty.

### B. The Act threatens women's equality, economic security, and ability to care for their families.

If the Act is enforced, the burdens outlined above, with a disproportionate effect on women who already face significant barriers to obtaining health care, would harm the ability of Iowa women to work, care for their families, and secure their economic future.

The additional time off needed for travel could result in a woman losing her job or having to choose between keeping her job and having an abortion.[41] Further, although abortion is a safe procedure, the risks increase with each week of pregnancy.[42] A minor complication could result in a woman losing her job or having to take additional unpaid time off.[43] A woman's inability to work or a serious reduction in her wages can be catastrophic to her and her family's economic security. Families' reliance on women's earnings has increased dramatically over the past 40 years.[44] Working mothers are primary breadwinners in 41% of families with

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[41] National Women's Law Center, Underpaid and Overloaded: Women in Low-Wage Jobs at 30-31 (discussing the consequences of inflexible schedules and lack of paid leave on low wage workers).

[42] Bonnie Scott Jones & Tracy A. Weitz, Legal Barriers to Second-Trimester Abortion Provision and Public Health Consequences at 623.

[43] See, e.g. National Women's Law Center, Underpaid and Overloaded: Women in Low-Wage Jobs, at 31.

[44] Id. at 3 (citing Sarah Jane Glynn, Breadwinning Mothers, Then and Now, Center for American Progress 6 (2014) available at http://cdn.americanprogress.org/wp-content/uploads/2014/06/Glynn-Breadwinners-report-FINAL.pdf).

children, and they are co-breadwinners—bringing in between 25% and 50% of family earnings—in another 22% of these families.[45] A lack or reduction of wages could push more women and their families closer to poverty and others deeper into the poverty they already endure.

If the Act goes into effect, some Iowa women will be forced to forgo the abortion altogether, with devastating consequences to themselves and their families. As the U.S. Supreme Court has recognized, "The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives." Casey, 505 U.S. at 855. Having a child creates both an immediate decrease in women's earnings and a long-term drop in their lifetime earning trajectory.[46] Women who delay childbearing can mitigate this earnings loss by investing in education and obtaining crucial early work experience. Women earn 3% more for each year of delayed childbearing.[47] Mothers—

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[45] Id.

[46] Adam Sonfield et al., Guttmacher Institute, The Social and Economic Benefits of Women's Ability to Determine Whether and When to Have Children 14-15 (2013) available at http://www.guttmacher.org/pubs/social-economic-benefits.pdf.

[47] See, e.g., Kelleen Kaye et al., The National Campaign to Prevent Teen and Unplanned Pregnancy, The Benefits of Birth Control in America: Getting the Facts Straight 4 (2014) available at http://thenationalcampaign.org/sites/default/files/resource-primary-download/getting-the-facts-straight-final.pdf.

especially those in low-wage jobs—also struggle to afford the safe and stable child care they need to be able to work.[48]

Indeed, women have abortions for a variety of reasons related to their economic stability and future wellbeing—to continue school, because they cannot afford to care for a child, to be able to care for the families they already have, or because they are not emotionally ready to have a child.[49] According to one woman, "I was too young, and I barely started going back to school and getting my life back on track. I wouldn't have enough things to support a baby."[50] The need to care for other children features prominently in many women's decision to have an abortion.[51] One woman explaining why she decided to have an abortion stated, "My son was diagnosed with cancer. His treatment requires driving 10 hours . . . The stress of that and that he relies on me."[52]

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[48] National Women's Law Center, Underpaid and Overloaded at 3 (citing Lynda Laughlin, U.S. Census Bureau, Who's Minding the Kids? Child Care Arrangements: Spring 2011 15 (April 2013) available at http://www.census.gov/prod/2013pubs/p70-135.pdf).
[49] See M. Antonia Biggs et al., Understanding Why Women Seek Abortions in the U.S. at 6.
[50] Diana G. Foster & Katrina Kimport, Who Seeks Abortions at or After 20 Weeks, 45(4) Persp. Sexual & Reprod. Health 210, 216 (2013).
[51] M. Antonia Biggs et al., Understanding Why Women Seek Abortions in the U.S. at 6.
[52] Id.

By requiring an extreme seventy-two-hour mandatory delay, the Act undermines the decisions women make about what is best for their lives and the wellbeing of their children. By imposing substantial collateral consequences on women, including adverse effects on a woman's financial security and ability to care for her family, the Act undermines women's full and equal participation in society.

The harm imposed by the Act is overwhelming, especially for the Iowa women who already face significant barriers to obtaining health care. It will force women to travel long distances, wait for appointments, make multiple trips, and absorb unnecessary and possibly insurmountable costs. It will place some women that are experiencing intimate partner violence in greater danger. It will result in some women losing their ability to use medication abortion, which they may prefer or need, and will increase the incidence of more invasive surgical abortion procedures. It will even force some women to forego their constitutionally protected right to abortion. This jeopardizes not only the health of Iowa women, but also their ability to work, get an education, care for their families, and secure their own and their family's economic future. Thus, the Act's negative impact on women's intimate right to determine whether to carry a pregnancy to term cannot be justified.

## II. If the Act is enforced, it will inflict irreparable harm on Iowa women.

As enumerated by *Amici* above, Petitioners and their patients—particularly women living in rural areas, those struggling to make ends meet and working in low-wage jobs, those who are survivors of sexual assault, those experiencing intimate partner violence, and those seeking medication abortion—will suffer irreparable and substantial injury if the Court does not enjoin enforcement of the Act.

## CONCLUSION

For the reasons set forth above, the Petitioners have established that they will likely succeed in their claim that the Act violates the Iowa Constitution and petitioners and their patients will be substantially injured if the Act is enforced. Therefore, this Court should enjoin or stay enforcement of the Act.

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