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CLERK OF DISTRICT COURT

**IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT
IN AND FOR TETON COUNTY, WYOMING**

DANIELLE JOHNSON;
KATHLEEN DOW;
GIOVANNINA ANTHONY, M.D.;
RENE R. HINKLE, M.D.;
CHELSEA'S FUND; and
CIRCLE OF HOPE HEALTHCARE
d/b/a Wellspring Health Access;

Plaintiffs,

v.

STATE OF WYOMING;
MARK GORDON, Governor of Wyoming;
BRIDGET HILL, Attorney General for the State
of Wyoming;
MATTHEW CARR, Sheriff Teton County,
Wyoming; and
MICHELLE WEBER, Chief of Police, Town of
Jackson, Wyoming,

Defendants.

Case No. 18732

COMPLAINT FOR DECLARATORY JUDGEMENT AND INJUNCTIVE RELIEF

PLAINTIFFS, Danielle Johnson, Kathleen Dow, Giovannina Anthony, M.D., Rene
Hinkle, M.D., Chelsea's Fund, and Circle of Hope Health Care Services, by and through

undersigned counsel, bring this Complaint for Declaratory Judgment pursuant to W.R.C.P. 57 and the Uniform Declaratory Judgments Act, W.S. §§1-37-101 *et seq.* (2011); and for Injunctive Relief pursuant to W.R.C.P. 65 & W.S. §§ 1-28-101 *et seq.* (1977). The Plaintiffs seek a declaration from the Court that Wyoming House Bill 92, as codified at Wyoming Statute Section 36-6-102, (W.S. § 36-6-102) (“Wyoming’s Criminal Abortion Ban”) violates the Wyoming Constitution. The Plaintiffs also seek injunctive relief to prevent Wyoming’s Criminal Abortion Ban from taking effect and/or being enforced.

For their Complaint, the Plaintiffs state and allege as follows:

INTRODUCTION

1. Wyomingites have historically relied on the right to be left alone by the government – especially when it comes to their private affairs such as family composition and decisions about their private health care – fundamental rights guaranteed by the Wyoming Constitution.

2. On Wednesday July 27, 2022, for Wyoming women¹ and their families, these rights will be taken by the state government and cease to exist.

3. On March 16, 2022, Governor Mark Gordon signed into law House Bill 92 (“HB 92”) proposing subsequent amendment of W.S. § 36-6-102, to prohibit abortion in Wyoming with limited exceptions.²

4. On July 22, 2022, Governor Gordon certified to the Wyoming Secretary of State that Wyoming’s Criminal Abortion Ban was authorized as enforceable, making it effective and enforceable on July 27, 2022.

¹ Reference to “woman” or “women” are meant as shorthand for people who are or may become pregnant. However, people with other gender identities, including transgender men and gender-diverse individuals, may also become pregnant and seek abortion services.

² House Bill 92 – the Wyoming Criminal Abortion Ban – bans all abortion except in cases of rape, incest, and serious risk of death or “substantial and irreversible physical impairments” for the pregnant woman. Ex. 1.

5. Wyoming's Criminal Abortion Ban will make all abortions illegal which are not carved out by three ambiguous exceptions. (*See n. 1, supra*)

6. In the absence of legal abortion in Wyoming, all women in the state who want an abortion or who seek health care related to abortion services will face a government-mandated trilemma: carry a pregnancy to term against their will; remain pregnant until they have the resources (if possible) to travel out of state to access critical, time-sensitive abortion services; or attempt to self-manage their abortions outside the medical system and without the assistance of health care providers.

7. Wyomingites harmed by the Criminal Abortion Ban will include women who seek care just days or weeks after discovering a missed period; those who are already struggling to pull their children out of poverty, finish school, escape an abusive partner, or overcome addiction; sexual assault survivors who, as is common, do not report their assault to law enforcement; and families grieving fetal diagnoses for which they are ill-equipped to handle.

8. In every case, Wyomingites who have relied on safe, legal access to abortion for decades will lose the right to determine the composition of their families and whether and when to become parents; the right to be free from state laws that perpetuate stereotypes about women and their proper societal role; the right to bodily autonomy and to be free from involuntary servitude; the right to make private health care decisions and to keep those health care decisions free from public scrutiny; and in some cases, the right to follow their religion when such religion requires abortion be considered as a necessary health care measure to prevent serious harm or death to a woman.

9. Starting Wednesday, July 27, 2022, any health care provider assisting with an abortion, and any woman who obtains an abortion, will be subject to felony criminal prosecution, and

face a 14-year prison sentence; and physicians and health care providers will be at risk of losing their professional licenses and their families' livelihoods.

10. As a result of the new law, Dr. Anthony, who provides abortion among other sexual reproductive health care, had no choice but to stop providing abortion services to any of her patients.

11. The Criminal Abortion Ban violates the Wyoming Constitution. Although *Dobbs v. Jackson Women's Health Organization*, No. 19-1392 (U.S. June 24, 2022) ("*Dobbs*"), has revoked the right to pre-viability abortions under the U.S. Constitution, the Wyoming Constitution serves as an independent source of rights for Wyomingites. *Hageman v. Goshen Cnty. Sch. Dist. No. 1*, 2011 WY 91, ¶ 7, 256 P.3d 487, 492 (Wyo. 2011) citing *Vasquez v. State*, 990 P.2d 476 (Wyo.1999). The Wyoming Supreme Court has made clear that Wyoming's Constitutional guarantees are more expansive than those secured by the Federal Constitution, and the Wyoming Constitution should be interpreted "to protect people against legal discrimination more robustly than does the federal constitution." *Johnson v. State Hearing Examiner's Off.*, 838 P.2d 158, 165 (Wyo. 1992)

12. Plaintiffs on behalf of themselves, their patients and clients, and Wyoming's women and families, bring this lawsuit, seeking a declaration that the Wyoming Criminal Abortion Ban violates the Wyoming Constitution.

13. Plaintiffs also seek a temporary restraining order, and preliminary and permanent injunctive relief, to prevent Defendants from enforcing the Wyoming Criminal Abortion Ban in Teton County and throughout Wyoming.

PARTIES

A. Plaintiffs

14. Plaintiff Danielle Johnson ("Ms. Johnson") is a resident of Teton County, Wyoming. She is married, 22 weeks pregnant, and a registered nurse at a community-based hospital in Wyoming.

She is certified as a sexual assault nurse examiner. Ms. Johnson hopes to stay in Wyoming and in her professional position in Wyoming.

15. Plaintiff Kathleen Dow (“Ms. Dow”) is a resident of Albany County, Wyoming, and a student at the University of Wyoming College of Law. She is a reproductive age woman with immediate plans to marry and have children. Ms. Dow is a life-long practicing conservative Jew who intends to continue practicing her faith, including raising her children in her faith, which requires her to consider abortion as an available health care alternative in the event of pregnancy conditions which threaten her health. Ms. Dow hopes to stay in Wyoming in her chosen career.

16. Plaintiff Giovannina Anthony, M.D., (“Dr. Anthony”) is a resident of Teton County, Wyoming, and an Obstetrics and Gynecology specialist. Her duties include all forms of gynecologic and obstetric care, including medical abortions. Dr. Anthony’s immediate plans include remaining in Teton County, Wyoming and providing the same health care services to her patients. Dr. Anthony brings her claims on her behalf and on behalf of her patients.

17. Plaintiff Rene Hinkle, M.D., (“Dr. Hinkle”) is a resident of Laramie County, Wyoming, and an Obstetrics and Gynecology specialist who provides health care for women including full obstetric services and primary gynecology and surgery. Dr. Hinkle’s immediate plans include remaining in Laramie County, Wyoming and providing the same health care services to her patients. Dr. Hinkle brings her claims on her behalf, and on behalf of her patients.

18. Plaintiff Chelsea’s Fund is a non-profit 501(c)(3) organization. Chelsea’s Fund plans to continue offering its services to its clientele throughout Wyoming and eastern Idaho so long as its capacity to do so is not inalterably impacted by Wyoming’s Criminal Abortion Ban. Chelsea’s Fund brings its claims on behalf of itself and on behalf of its clients who rely upon their association with the organization to protect their rights.

19. Circle of Hope Health Care Services, Inc., (“Circle of Hope”) is a domesticated Wyoming nonprofit corporation that constructed a medical clinic in Casper, Wyoming, where it will offer abortion and other health-related services desperately needed in Wyoming. The clinic was to open in June of this year before an arson delayed the opening until fire-remediation and reconstruction is complete. Circle of Hope will provide an array of reproductive health care services, including medical and surgical abortions performed by physicians licensed to practice medicine in Wyoming, and has retained staff and medical personnel. Circle of Hope will offer such services so long as Wyomingites’ fundamental rights they have always enjoyed continue to exist. Circle of Hope brings its claims on behalf of itself, and on behalf of its clients who rely upon their association with the organization, and its clinics and health care providers, to protect their rights.

B. Defendants

20. Defendant State of Wyoming is responsible for upholding the Wyoming Constitution. The State of Wyoming has proposed enactment and enforcement of the Wyoming Criminal Abortion Ban as stated herein and has authority through state and local officials to enforce it.

21. Defendant Mark Gordon (“Governor Gordon”) is the Governor of Wyoming. He may require the Attorney General to aid local prosecutors and/or law enforcement in the discharge of their duties. Governor Gordon is sued in his official capacity for the relief sought herein.

22. Defendant Bridget Hill (“Ms. Hill”) is the Attorney General for the State of Wyoming, and the State’s chief legal officer. She exercises supervisory power over local prosecutors throughout Wyoming; and is also responsible for defending Wyoming laws against constitutional challenges. Ms. Hill is sued in her official capacity

23. Defendant Matthew Carr (“Mr. Carr”) is the Sheriff of Teton County, and Teton County’s chief law enforcement officer. His official position charges him with enforcement of the laws of the State of Wyoming. Mr. Carr is sued in his official capacity.

24. Defendant Michelle Weber (“Ms. Weber”) is the Chief of Police for the Jackson Police Department, and she is the chief law enforcement officer for the Town of Jackson, Wyoming. Her official position charges her with enforcement of the laws of the State of Wyoming. Ms. Weber is sued in her official capacity.

VENUE AND JURISDICTION

25. The Ninth Judicial District Court in Teton County is the proper venue for this action because the Wyoming Criminal Abortion Ban would be a law of the State of Wyoming, enforceable by its peace officers, including Defendants Carr and Weber, and the officers they supervise; because its enforcement would impact the citizens of Teton County, including Ms. Johnson and Dr. Anthony and her patients, and pursuant to W.S. § 1-5-108.

26. This Court has jurisdiction over this matter pursuant to W.R.C.P. Rule 57 as it may declare rights of the parties pursuant to W.S. § 1-37-102; because Plaintiffs are persons whose rights, status or other legal relations are affected by the Wyoming Constitution and the Wyoming Criminal Abortion Ban pursuant to W.S. § 1-37-103; because it has general equitable power to enforce the Wyoming Constitution; and, because the relief sought is a declaration that will have the force and effect of a final judgment.

27. This Court has jurisdiction to issue the injunctive relief sought herein and in the contemporaneous and upcoming motions for injunctive relief pursuant to W.S. § 1-28-101, *et seq.*, as well as its general equitable powers to enforce the Wyoming Constitution.

FACTUAL ALLEGATIONS

A. Wyoming's Criminal Abortion Ban

28. The Wyoming Criminal Abortion Ban will be effective for enforcement in Teton County and throughout Wyoming on July 27, 2022. (*See supra* ¶¶ 3-5, incorporated herein).

29. As of the effective date, performing an abortion in violation of the Wyoming Criminal Abortion Ban will be a felony for which abortion providers, their staff and their patients risk a prison term of fourteen years, as well as other licensing and professional penalties.

B. The Impact of Wyoming's Criminal Abortion Ban on Plaintiffs

i. Ms. Johnson

30. Ms. Johnson has never had a government impose its morals into her health care, and she is 22 weeks pregnant.

31. On the date of this filing, Ms. Johnson is entitled to all evidence-based health care as recommended by the American College of Obstetrics and Gynecology, the American Medical Association, and other entities that support evidence-based health care.

32. On the date of this filing, Ms. Johnson is entitled to all ethical and sound health care as determined by her health care providers.

33. The Wyoming Criminal Abortion Ban will prohibit her from seeking and receiving such health care, as referenced in the preceding two paragraphs, in Teton County, and throughout Wyoming.

34. If Ms. Johnson experiences complications with her pregnancy, the ban could, and likely would, cause her health care providers to delay and/or deny appropriate medical or surgical treatment until she is in a life-threatening situation. This is a risk she and her family should not have to face when such treatment has been and is available to her on the day this Complaint is filed.

35. If Ms. Johnson's pregnancy reveals that she is pregnant with a fetus with lethal defects, she does not wish to continue the pregnancy until labor occurs or until fetal death in-utero, and wishes to have all evidence-based health care options available to her on the day this Complaint is filed, including termination, which the ban would prohibit.

36. Ms. Johnson is also a registered nurse who provides health care in an emergency room setting pursuant to her professional license issued by the Wyoming Department of Health and the Nightingale Oath.

37. On the day this Complaint is filed, Ms. Johnson is duty-bound and obligated to assist with the administration of all evidence-based health care which is ethical and sound in order to meet her patients' emergency needs, including patients who are pregnant.

38. If the Wyoming Criminal Abortion Ban becomes effective, Ms. Johnson will be legally constrained from providing her pregnant patients with all available evidence-based health care which she is ethically and professionally obligated to provide. Such constraint could compromise her license and her livelihood.

39. If the Criminal Abortion Ban becomes effective, Ms. Johnson may be forced to consider discontinuing her employment and relocate to another state where she is not legally constrained from providing her patients with the care they medically need.

ii. Ms. Dow

40. Ms. Dow has never had a government impose its morals into her health care.

41. She has previously had an abortion to protect herself after becoming pregnant in an abusive relationship.

42. Ms. Dow is engaged to marry and plans on living and working in the State of Wyoming where she intends to have a family including children who will be the product of her marriage.

43. Ms. Dow is also a practicing Jew. Pursuant to her faith, she is to always consider abortion as an alternative if her physical *or mental* health or life are in danger while pregnant.

44. On the date of this filing, Ms. Dow is entitled to all evidence-based health care as recommended by the American College of Obstetrics and Gynecology, the American Medical Association, and other entities that support evidence-based health care.

45. On the date of this filing, Ms. Dow is entitled to all ethical and sound health care as determined by her health care providers.

46. The Wyoming Criminal Abortion Ban will prohibit her from seeking and receiving such health care, as referenced in the preceding two paragraphs, in Wyoming.

47. If Ms. Dow experiences complications with a future pregnancy, the ban could, and likely would, cause her health care providers to delay and/or deny appropriate medical or surgical treatment until she was in a life-threatening situation, a risk she and her family should not have to face when such treatment has been and is available to her on the day this Complaint is filed.

48. If Ms. Dow's future pregnancy reveals that she is pregnant with a fetus with lethal defects, she does not wish to continue the pregnancy until labor occurs or until fetal death in-utero, and she wishes to have all evidence-based health care options available to her on the day this Complaint is filed, including termination.

iii. Dr. Anthony

49. Dr. Anthony has delivered more than 3,000 babies in her career, with many of those births complicated by maternal and fetal conditions. She has seen a broad spectrum of human complications during pregnancy and childbirth and has a deep understanding of the complications that can cause durable disability and death. She manages her own high-risk pregnancy patients.

50. Dr. Anthony's education, training and experience have led her to practice medicine in a manner which provides her patients with evidence-based health care, including treatments that are potentially harmful to a fetus but urgent and medically necessary for the patient / mother. The Criminal Abortion Ban would function as a barrier to this type of care.

51. Dr. Anthony's health care services include medication abortion which many patients prefer to surgical abortion.

52. Dr. Anthony is committed to providing high-quality, compassionate obstetric care, including abortion care, that honors each patient's dignity and autonomy.

53. In 2021, Dr. Anthony's office managed dozens of Wyoming's abortions.

54. Because Wyoming has a shortage of obstetrician/gynecologists, Dr. Anthony sees patients from Sublette, Lincoln, Fremont and Sweetwater Counties.

55. If the Wyoming Criminal Abortion Ban goes into effect, she will have to decline care for women who have desired pregnancies, out of fear that a pregnancy loss could lead to felony charges and incarceration, as well as collateral professional consequences.

56. If the Wyoming Criminal Abortion Ban goes into effect, Dr. Anthony will no longer be able to offer ethical, evidence-based health care to her patients.

57. Presently, Dr. Anthony's office has stopped providing abortions to prepare for the ban. She is prepared to continue offering such services at a moment's notice if the ban is halted.

58. The Wyoming Criminal Abortion ban will also force all of Wyoming's certified obstetrics care physicians, including Dr. Anthony, to delay appropriate medical care for women with desired pregnancies.

59. If the Criminal Abortion Ban is implemented, physicians such as Dr. Anthony will hesitate to provide care in situations where appropriate medical care is necessary and warranted, but criminalized, for fear of violating the arbitrary language of the law. In order for Dr. Anthony's patients to receive appropriate and timely care, she will be forced to ask them to drive to Colorado, Idaho, Utah, or Montana contrary to all good standards of medicine and evidence-based healthcare.

iv. Dr. Hinkle

60. Dr. Hinkle has delivered more than 3,000 babies in her career, and more than 2,500 in Cheyenne, with many of those births complicated by maternal or fetal conditions. She has seen a broad spectrum of human complications during pregnancy and childbirth, and she has a deep understanding of the complications that can cause durable disability and death. She manages her own high-risk pregnancy patients.

61. Dr. Hinkle treats patients who have lost viable, desired pregnancies to miscarriage and ectopic pregnancies.

62. Dr. Hinkle is committed to providing high-quality, compassionate care that honors each patient's dignity and autonomy. When patients desire a first trimester elective abortion, they are referred to a provider who can assist. Dr. Hinkle does offer and counsels her patients regarding elective second trimester terminations for pregnancies that are found to have lethal fetal complications.

63. Dr. Hinkle's education, training and experience have led her to practice medicine in a manner which provides all of her patients with evidence-based health care, including

treatments that are potentially harmful to a fetus, but urgent and medically necessary for the patient/mother. The Criminal Abortion Ban could function as a barrier to this type of care.

64. The Wyoming ban could discourage procedures she performs, such as Dilation and Curettage for miscarriage, and lifesaving surgery for ectopic pregnancies, for fear of prosecution and prison.

65. The Wyoming ban may also discourage her patients in need of the services referenced in the preceding paragraph, as they will stay home longer, bleed more and have increased morbidity and mortality due to lack of understanding that such procedures are not elective abortions.

66. As a result of the Wyoming ban, Dr. Hinkle will have to stop offering elective second trimester terminations for pregnancies that are found to have lethal fetal complications – abnormalities which are devastating for patients and traveling (sometimes alone) to another state for the procedure will make them even more so. Those lethal abnormalities are trisomy 18, certain skeletal dysplasia, trisomy 13, anencephaly, and any triploidy.

67. The Wyoming ban will also reduce the necessary, medical evidence-based options for patients with desired pregnancies, but who have a fetus with a lethal abnormality, placing her patients at risk for bleeding, pre-eclampsia, infection, and death.

68. If the Wyoming Criminal Abortion Ban goes into effect, Dr. Hinkle will no longer be able to offer ethical and evidence-based health care to her patients.

69. The Wyoming Criminal Abortion ban will also force all of Wyoming's certified obstetrics care physicians, including Dr. Hinkle, to delay some appropriate and necessary medical care for women who are or may become pregnant, and who may or may not desire to remain pregnant for a myriad of reasons.

v. Chelsea's Fund

70. Chelsea's Fund's mission is to enable all Wyoming and eastern Idaho residents to access abortion services, through information, funding assistance, and travel support, which sometimes involves out-of-state travel.

71. It provides assistance to women and families who otherwise could not afford abortion services.

72. During 2022, 64% of the abortions Chelsea's fund supported were for services in Wyoming.

73. The Wyoming Criminal Abortion Ban will be devastating for the clients of Chelsea's Fund and overwhelm the organization. The funding and logistical support for all abortions currently provided in Wyoming, which will have to be administered and performed out of Wyoming, is far beyond the organization's capacity.

74. Chelsea's Fund's capacity to continue operations will be quickly eclipsed by the increased cost of services for each client it serves, and the Fund estimates that it be forced to cease operations as its funding can no longer meet the anticipated increase in per-client cost.

vi. Circle of Hope

75. In 2021, Circle of Hope signed a two-year lease for premises to run a clinic in Casper, Wyoming, where it intends to operate a private medical office for general gynecological care, medical and procedural abortion, family planning, gender affirming care, family medicine, STD/STI testing and treatment, and sex education consultations. Circle of Hope anticipates serving 1,100 patients per year.

76. Circle of Hope hired 6 staff members, including a full-time, salaried clinic administrator, a $\frac{3}{4}$ -time, hourly patient coordinator, 2 part-time, hourly medical assistants, and 2

part-time, hourly registered nurses. It also has three Wyoming-licensed physicians ready to provide services, and two more physicians in the process of obtaining Wyoming licensure.

77. The Criminal Abortion Ban will stop all of Circle of Hope's efforts to provide essential medical care to Wyomingites, and completely thwart its business purpose.

C. The Impact of the Criminal Abortion Ban on Wyomingites³

78. The Wyoming Criminal Abortion Ban will force Wyomingites to continue a pregnancy against their will without adequate health care, including the availability of safe and legal abortion.⁴

³ Most, if not all, of the Impacts under this section of the Complaint impact the patients of Drs. Anthony and Hinkle, and the Circle of Hope patients and clients of Chelsea's Fund.

⁴ Wyoming recognizes abortion as health care. Current Wyoming law defines "abortion" as "an act, procedure, device, or prescription administered to or prescribed for a pregnant woman by any person with knowledge of the pregnancy, including the pregnant woman herself, with the intent of producing the premature expulsion, removal or termination of a human embryo or fetus, except that in cases in which the viability of the embryo or fetus is threatened by continuation of the pregnancy, early delivery after viability by commonly accepted obstetrical practices shall not be construed as an abortion" W.S. § 35-6-101(a)(i).

Current Wyoming law prohibits abortions only after "viability," except "when necessary to preserve the woman from an imminent peril that substantially endangers her life or health, according to appropriate medical judgment." W.S. § 35-6-102.

"Viability" is defined as "that stage of human development when the embryo or fetus is able to live by natural or life-supportive systems outside the womb of the mother according to appropriate medical judgment" W.S. § 35-6-101(a)(vii).

Only physicians are authorized to perform abortions in Wyoming. W.S. § 35-6-104. Physicians have been providing safe abortions in Wyoming for decades.

The State of Wyoming prescribes forms for physicians to use to report information about abortions performed in Wyoming. W.S. § 35-6-107.

According to the American College of Obstetricians and Gynecologists, "abortion is an essential component of women's health care." <https://www.acog.org/advocacy/facts-are-important/abortion-is-healthcare>. "Abortion care is included in medical training, clinical practice and continuing medical education." *Id.*

The World Health Organizations lists abortion care as an essential health care service. <https://www.who.int/news-room/fact-sheets/detail/abortion>.

Complications from abortion are rare. There are no long-term health risks from abortion. Having an abortion does not increase a woman's risk of infertility, pre-term delivery, breast cancer, or mental health disorders. National Academies of Sciences, Engineering, and Medicine, *The Safety and Quality of Abortion Care in the United States*, pp. 9-10 (2018).

79. On July 27, 2022, and after, some women may be forced to forego educational opportunities, face decreased opportunities to fulfill their economic potential, and may be more likely to experience economic insecurity and raise their children in poverty due to the Wyoming Criminal Abortion Ban.⁵

80. Women in Wyoming may decide to end a pregnancy for any number of reasons, including that continuing with a pregnancy may pose a significant risk to their health, contraceptive failure, health concerns for the fetus, intimate partner violence or abandonment, food insecurity, lack of childcare options, limited job prospects, poor housing, insufficient financial and/or medical support, contraceptive failure, severe fetal anomaly, and the unavailability of paid or unpaid family leave. Women may also decide that it is not the right time for them to have a child or to add another child to their families.

81. The Criminal Abortion Ban does not address or account for any of these concerns and will force women to seek out-of-state health care.

82. For some women in Wyoming, the potential barriers to out-of-state abortion care will prove insurmountable. Women forced to travel will experience many logistical obstacles. Women may be kept from receiving the care they need due to overwhelmed clinics, increased costs, loss of income, and for some, an increased risk of intimate partner violence. These barriers will inevitably force some women to turn to extralegal, unsafe abortion alternatives.

Complications from abortion are much more rare than complications arising during childbirth. National Academies, p. 11. The risk of death following a legal abortion is a fraction of the risk of death for childbirth (0.7 per 100,000 compared to 8.8 per 100,000). *Id.* at 74-75. In fact, Abortion carries a lower risk of death than many common medical procedures such as colonoscopies, plastic surgery, and adult tonsillectomies. *Id.*

⁵ Published pre-*Dobbs*, Brookings reported detailed economic data and research on the effect of abortion access on women's lives. The report states, "[r]esearch demonstrates that abortion access does, in fact, profoundly affect women's lives by determining whether, when, and under what circumstances they become mothers." <https://www.brookings.edu/research/what-can-economic-research-tell-us-about-the-effect-of-abortion-access-on-womens-lives/?amp>

83. The Criminal Abortion Ban will arbitrarily require women to prove they are a victim of rape or sexual assault to qualify for an abortion, a feat that is unlikely to occur within the required time frame for a safe abortion; and women and families who lack resources and educational opportunities face hurdles that will compound the difficulty of existing obstacles to qualify under the rape or incest exception.

84. Even where women would qualify for an exception to the Criminal Abortion Ban, statistically it is highly unlikely that women attempt to get an abortion under the exception if they are required to report their victimization to the police.⁶

85. Where women become pregnant willingly, their access to health care is limited, enforcing Wyoming's Criminal Abortion Ban will exacerbate the health care crisis in Wyoming by intimidating doctors through threats of incarceration and these threats will keep doctors from coming to the state and drive the cost of health care up.

86. The effect of Wyoming's Criminal Abortion Ban on physicians in the State is chilling, Plaintiffs' patients, who do not believe any of the specified risks set forth in the Criminal Abortion Ban apply to them, will have no access to the health care they chose and/or need and will be forced to continue a pregnancy if the law goes into effect.

87. Wyoming has a shortage of health care providers, Memorial Hospital of Carbon County recently announced that as of June 16, 2022, it will no longer provide labor and delivery

⁶ As written, W.S. 35-6-102(b) provides no method for a health care provider to validate a claim of rape or incest. *Arguendo*, what should be the standard for a doctor to determine if they can provide a lawful abortion under the statute? An assertion by the patient? A report to a counselor? A report to law enforcement? A law enforcement investigation? Criminal charges? A criminal conviction? Practically speaking, no "adjudication" of such claims is possible in the short time a woman has to make such a consequential medical decision. The transparent and invidious goal of this exception is to discourage sexual assault survivors from obtaining abortions. Also, as an aside, should a woman somehow qualify for a rape/incest abortion, and because section (b) of the statute by its operation repeals subsection (a), there would be no bar to a late-term or post-viability abortion in such a case. There is also the troubling possibility that should a woman be denied an abortion because she does not disclose her rape, or is unable to "prove" her rape, she could be forced to share custody of the child with her rapist.

services because of financial issues. This means that pregnant women in Carbon County have to travel at least an hour or more to the nearest medical facility that delivers babies or can provide care for premature deliveries or other pregnancy-related complications.

88. Many women seek emergency care at least once during a pregnancy, and women with comorbidities (either preexisting or those that develop as a result of their pregnancy) are significantly more likely to seek emergency care.

89. Women without health insurance may not have sufficient savings to cover pregnancy-related expenses. A costly pregnancy, particularly for individuals already suffering from economic hardship, could have long-term and severe impacts on a family's financial stability.

CLAIMS FOR RELIEF

First Cause of Action:

Declaratory Judgment pursuant to W.S. 1-31-101 et seq and W.R.C.P. 57

90. Plaintiffs incorporate all previous paragraphs as if fully set forth herein.

91. Plaintiffs are persons and entities whose rights, status or other legal relations are affected by the Wyoming Constitution and the relevant Wyoming Statutes which make up the Wyoming Criminal Abortion Ban.

92. The parties include all persons who have a claim or interest which would be affected by the declaration, including the State's Attorney General.

93. The Wyoming Constitution and the Wyoming Supreme Court jurisprudence are replete with enumerated and unenumerated rights which guarantee Wyomingites' fundamental right to be left alone by the government, absent a compelling need narrowly drawn.

94. The Wyoming Criminal Abortion Ban trammels Plaintiffs' and Wyomingites' said fundamental rights without a compelling need, nor is it narrowly tailored to achieve any compelling need.

95. Plaintiff's fundamental rights which make up right to be left alone by the government absent a compelling need narrowly drawn include, but are not limited to, their rights to equality, due process, uniform operation of the laws, family composition, privacy and bodily integrity, conscience, and access to health care. Wyo. Const. Art. 1 §§ 2, 3, 6, 7, 18, 33, 34, 36 and 38.

96. Plaintiffs are entitled to a Declaration of this Court that the Wyoming Criminal Abortion Ban violates Plaintiffs' and their patients' and clients' Constitutional rights under the Wyoming Constitution; and that the Act is therefore unlawful, invalid, and unenforceable.

Second Cause of Action:
Permanent Injunction pursuant to W.S. 1-28-101 et seq and W.R.C.P. 57

97. Plaintiffs incorporate all previous paragraphs as if fully set forth herein.

98. Pursuant to Rule 65, W.R.C.P., and W.S. §§ 1-28-101 *et seq.*, Plaintiffs will suffer irreparable harm, the equities balance in their favor and it is in the public interest if enforcement of the Wyoming Criminal Abortion Act is enjoined from becoming effective, as it is unconstitutional. Plaintiffs are entitled to a temporary restraining order,⁷ preliminary injunction, and permanent injunction to enjoin enforcement of the Wyoming Criminal Abortion Ban.

99. As Defendants will suffer no injury, security should be waived.

REQUESTS FOR RELIEF

Plaintiffs Respectfully request an Order of this Court:

⁷ By counsel's signature below, he certifies that on Friday July 22, 2022, *prior* to the Governor's certification of the Wyoming Criminal Abortion Ban, he advised the Attorney General's Office through their attorney, Jay Jerde, that should certification issue this lawsuit and its request for injunctive relief would be filed on the date so filed.

100. Declaring the Wyoming Criminal Abortion Ban Unconstitutional under the Wyoming Constitution and that the Act is therefore invalid and unenforceable;

101. Issue a temporary restraining order and preliminary and permanent injunctions prohibiting Defendants and their officers, employees, servants, agents, appointees, or successors from administering, preparing for, and enforcing the Act with respect to any abortion provided during the temporary, preliminary and permanent injunctions;

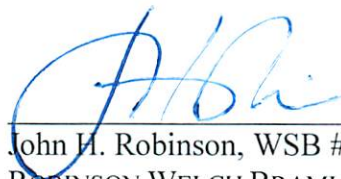
102. Waive any security requirement for any injunction issued under W.R.C.P. 65(c);

103. Retain jurisdiction of this action to render any further orders that this Court may deem appropriate;

104. Award Plaintiffs' costs and expenses; and

105. Grant such other and further relief the Court deems just and proper.

RESPECTFULLY SUBMITTED this 25th day of July, 2022.



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