IN THE COURT OF THE SECOND CIRCUIT OF THE STATE OF FLORIDA
IN AND FOR LEON COUNTY, FLORIDA

CIVIL DIVISION

CASE NO. 2022 CA 000980

GENERATION TO GENERATION, INC., a religious non-profit organization in Palm Beach County, Florida, d/b/a Congregation L'Dor Va-Dor, on behalf of itself, its congregants, its members, its supporters and their families,

Plaintiff,

v.

THE STATE OF FLORIDA; RON DeSANTIS, in his official capacity as Governor of the State of Florida, JACK CAMPBELL, in his official capacity as State Attorney for the Second Judicial Circuit of Florida; DAVID A. ARONBERG, in his official capacity as State Attorney for the Fifteenth Judicial district of Fla, FLORIDA DEPARTMENT OF HEALTH, JOSEPH LADAPO, M.D. in his official capacity as Secretary of Health for the State of Florida, FLORIDA BOARD OF MEDICINE; DAVID DIAMOND, M.D. in his official capacity as Chair of the Florida Board of Medicine; FLORIDA BOARD OF OSTEOPATHIC MEDICINE; SANDRA SCHWEMMER, D.O. in her official capacity as Chair of the Florida Board of Osteopathic medicine; FLORIDA BOARD OF NURSING, MAGGIE HANSSEN, M.H.S, R.N. in her official capacity as Chair of the Florida Board of Nursing; FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION, and SIMONE MARSTILLER, J.D. in her official capacity as Secretary of the Florida Agency for Health Care Administration.

Defendants.

AMENDED COMPLAINT FOR DECLARATORY RELIEF AND FOR TEMPORARY AND PERMANENT INJUNCTION DECLARING HOUSE BILL 5, INVALID UNCONSTITUTIONAL AND UNENFORCEABLE

I. PRELIMINARY STATEMENT

1. Over a generation ago, the people of Florida amended the Florida Constitution to guarantee Floridians a broad right of privacy, including the right to abortion. Art. I, § 23, Fla. Const. This "independent, freestanding constitutional provision which declares the fundamental right to privacy" was drafted "in order to make the privacy right as strong as possible," *Winfield v. Div. of Pari-Mutuel Wagering*, 477 So. 2d 544, 548 (Fla. 1985), and to "embrace more privacy interests, and extend more protection to the individual in those interests, than does the federal Constitution," *In re T.W.*, 551 So. 2d 1186, 1192 (Fla. 1989). The Florida Supreme Court has always held that this broad right to privacy includes a woman's right to terminate a pregnancy. "The Florida Constitution embodies the principle that '[f]ew decisions are more personal and intimate, more properly private, or more basic to individual dignity and autonomy, than a woman's decision . . . whether to end her pregnancy. A woman's right to make that choice freely is fundamental.'" *Id.* at 1193 (quoting *Thornburgh v. Am. Coll. of Obstetricians & Gynecologists*, 476 U.S. 747 (1986)). Floridians have consistently reaffirmed that abortion is a fundamental right deserving of the strongest protection against government intrusion. In 2012, Floridians rejected a ballot initiative that would have amended the state constitution to overturn precedent by construing the right to privacy narrowly to prohibit state courts from interpreting the Florida Constitution to provide stronger protection for abortion than the federal constitution.[1]

[1] Fla. Dep't of State, Div. of Elections, *Initiative Information: Prohibition on Public Funding of Abortions; Construction of Abortion Rights,* https://dos.elections.myflorida.com/ initiatives/fulltext/pdf/10-82.pdf; Fla. Dep't of State, Div. of Elections, *Prohibition on Public Funding of Abortions; Construction of Abortion Rights,* https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=10&seqnum=82(lastvisited May 22, 2022).

2. In violation of the will of the people, all case precedent, and Florida's history of protecting the right to abortion as inviolate and fundamental, the Florida legislature recently passed House Bill 5, a law that criminalizes pre-viability abortions in direct violation of Floridians' fundamental privacy rights guaranteed by the Florida Constitution. *See* Ch. 2022-69, §§ 3–4, Laws of Fla. ("HB 5" or "the Act") (amending §§ 390.011, 390.0111, Fla. Stat.). HB 5 was signed by Governor Ron DeSantis on April 14, 2022, and it is scheduled to take effect on July 1, 2022. The Act is attached hereto as Exhibit A.

3. HB 5 also violates Article 1, Section 3 of the Florida Constitution which provides "There shall be no law respecting the establishment of religion or prohibiting or penalizing the free expression thereof." The Florida Constitution thus goes beyond the United States Constitution in its protection of religious freedom in that it adds that the free exercise of religion may not be *penalized*. Plaintiff and its members, congregants and supporters rely on Jewish law and understanding regarding abortion, which differs from the requirements of the Act, and thus, if the members, congregants and supporters of Plaintiff practice their religion regarding decisions related to abortion, they will be penalized by the state in violation of the Constitution.

4. The Act establishes as the law of the State of Florida, a particular religious view about abortion and when life begins, which is contrary to the views of Plaintiff, its members, congregants, and supporters as well as many other Floridians. While the Act does not specify all the penalties for violation of its terms, the Act has been instigated across the nation by those who espouse the view that human life begins at conception, and thus equates abortion with murder. Accordingly, the penalties for violations of the Act could be grave and could include death. By failing to specify the penalties for violation of the Act, and who would be subject to such penalties, the Act leaves Floridians in the dark as to the dire consequences that could befall them if they exercise their religious beliefs, which has a chilling effect upon the free exercise of religion.

5. HB 5 severely restricts the ability of Floridians to make decisions about whether or not to bear children and assume the obligations of parenthood, in violation of their rights under the Florida Constitution. Bringing children into this world is among the greatest blessings, but it can become a curse if forced upon a woman against her will, which is the result if HB 5. As such HB 5 violates the rights of all women to determine when they are ready and prepared to take on the awesome challenges, responsibilities and risks to their health, associated with childbirth. Rather than encouraging women who take parenthood seriously to make an informed, knowing decision in this most important aspect of their lives, the Act deprives women of their basic right to choose parenthood and to manage the size of their families. The Act forces women to risk their health, their lives, and their emotional well-being to further a law which has no rational basis and which serves no compelling state interest.

6. Specifically, HB 5 criminalizes the provision of abortion care after fifteen weeks as dated from the first day of a woman's last menstrual period ("LMP"). That timing is early in the second trimester and *months* prior to both fetal viability and the current limit under Florida law. This timing is arbitrary and capricious, is not supported by any rational basis or compelling state interest and the timing is hard to determine for most women and their medical providers, who face severe penalties if they are wrong in these difficult calculations.

7. By banning the provision of abortion care after fifteen weeks LMP, the Act will unlawfully intrude upon the fundamental privacy rights of Florida women. It will deny Floridians' autonomy over their own bodies and undermine their ability to make deeply personal decisions about their lives, families, and health care, free of government interference.

8. The Act threatens Plaintiff and its members, congregants and supporters, and their families as well as those who currently provide abortion care services to Plaintiff and their congregants in Florida after 15 weeks LMP, with severe penalties: it makes the provision of

abortion care after 15 weeks LMP a felony and threatens clinics and health care professionals with adverse licensing and disciplinary action for providing essential health care to their patients. If the Act goes into effect, it will cause immediate and irreparable harm to Floridians seeking abortions after 15 weeks LMP, including, but not limited to Plaintiff, its congregants, members and supporters, and their families.

9. The Act criminalizes physicians who perform an abortion but does not criminalize abortions performed by non-physicians. Thus, the Act unreasonably jeopardizes the lives of all women in Florida, including those who choose to exercise their religious freedom, such as the Plaintiff, its members, congregants and their supporters, by forcing the women of Florida to seek abortions from non-physicians or out of state. The Act targets women without the means to pay thousands of dollars to travel out of state to obtain an abortion and takes Florida backwards to the dangerous days when women were forced to obtain back-alley abortions in order to exercise their right of privacy and their religious freedom, and as a result suffered injury and death.

10. Plaintiff seeks a declaratory judgment and a temporary and permanent injunction pursuant to Chapter 86 and Section 26.012(3), Florida Statutes, and Florida Rules of Civil Procedure Rule 1.610 to prevent the violation of Floridians' constitutional rights.

11. Unless this Court grants an injunction before HB 5 takes effect, abortion providers will be unable to provide pregnant Floridians, including the members, congregants, supporters and families of Plaintiff with abortions and health care that they are guaranteed under the Florida Constitution. If denied an abortion by the Act, Plaintiff's pregnant members, congregants and supporters and their families will lose autonomy and the religious freedom to make important decisions about intimate aspects of their lives, while those with the means to do so, will be required to travel great distances, which could be thousands of miles to exercise their rights. All such delays increase the danger and harm to women from abortion, which nevertheless is less than the dangers

of childbirth. Other women in desperation may seek to end their pregnancies in the manner utilized by women when abortions were illegal in the United States, which involved being treated by unlicensed, untrained individuals who were often not physicians and often caused great harm to the women they treated which included permanent injury and death. Because of the vague, undefined terms in the Act, others may be afraid to assist women in making a decision regarding abortion, leaving women to struggle with the stress of an unwanted pregnancy alone.

12. Forcing parenthood upon women against their will harms women, their families and our society. By denying women their dignity, autonomy, religious freedom and their fundamental rights, the Act denigrates women, threatens the integrity of families and reverts back to a time in our nation's history when women were denied the right to vote, to enter into a contract and to enjoy equal rights under the law. Thus, the Act takes us backwards to a time of less rights for women, rather than forwards in pursuit of full equality of opportunity and rights under the law.

13. If injunctive relief is not granted, the Act will deny Plaintiff and others their fundamental constitutional rights and will cause Plaintiff, its members, congregants, supporters and their families irreparable harm for which there is no adequate remedy at law. In order to infringe upon the religious freedom and privacy rights of Plaintiff and all other women in Florida and their families, the State must show a compelling state interest in support of the Act and the least intrusive manner to achieve this goal. No compelling state interest, nor even a rational basis exists for the Act, which is broad and vague, rather than least restrictive means to achieve its ends.

II. JURISDICTION AND VENUE

14. This Court has jurisdiction over this action pursuant to article V, section 5, subsection (b) of the Florida Constitution and Sections 26.012(3) and 86.011, Florida Statutes.

15. Venue is proper in this Court pursuant to Section 47.021, Florida Statutes, because at least one Defendant has a principal office in Leon County.

III. THE PARTIES

A. Plaintiff

16. Plaintiff GENERATION TO GENERATION, Inc. is a religious non-profit corporation organized under the laws of Florida, d/b/a Congregation L'Dor Va-Dor, (hereinafter referred to as "L'Dor Va-Dor"), operating in Palm Beach County, Florida for 25 years. It files this lawsuit on behalf of itself, its congregants, its members, its supporters and their families, the Jewish community, religious minorities of all backgrounds and on behalf of those whose ethics, values, morals and beliefs, whether recognized as a formal religion or not, are in conflict with the religious views and assumptions that are reflected in the Act. Plaintiff files this action to prevent the establishment of a religious view and code of conduct regarding abortion and the beginning of life, to be imposed on Plaintiff and all other Floridians, who they have determined to be morally inferior and thus not deserving of the right to exercise autonomy over their bodies in matters related to abortion, child birth and family. The Act disrespects the religious views of others and threatens them with penalties, if they seek to exercise their religious beliefs or help others to do so. The worlds "L'Dor Va-Dor" is Hebrew for "Generation to Generation" and were used as the name of Plaintiff's congregation because it was founded by a mother and father and their son, who deeply cherish the family as a source of love, joy, traditions and supporting one another to bring out the best in the family to work together towards "tikkun olam" (improving the world). Rabbi Samuel Silver, his wife Elaine, who served as musical director of L'Dor Va-Dor for many years and their son, Barry Silver have always been committed to working as a family to promote Jewish ideals of joy, love, humor, education, inspiration and the freedom we enjoy in America for all people, including women, and they have always championed a woman's right to choose as essential to preserving the sanctity, integrity, and strength of the Jewish family to transmit Judaism "L'Dor Va-Dor", i.e. throughout the generations. So important is the Jewish family to the Plaintiff

and the joy that comes from bringing new life into the world when the decision is freely chosen, Congregation L'Dor Va-Dor welcomes with free membership all couples who have been united in marriage by its Rabbi and many such members are of child-bearing age. These members would be adversely affected and would suffer great harm if the Act takes effect and they are denied the freedom which Jews and others have enjoyed for almost half a century to determine the size of the family and when they are ready, willing and able to bring new life into the world, and to assume the joys and responsibilities of parenthood, which is a cornerstone of Jewish life and one of the most important goals of Plaintiff, Congregation L'Dor Va-Dor.

B. Defendants

17. Defendant the State of Florida, through its Legislature and Governor, adopted the challenged Act. It is scheduled to take effect on July 1, 2022.

18. Defendant, Ron DeSantis, is Governor of the State of Florida, and spearheaded the passage of the Act not for any legitimate rational purpose or compelling state interest, but due to purely political reasons. He is sued in his official capacity, as are his agents and successors.

19. Defendant Jack Campbell is the state attorney of the Second Judicial Circuit of Florida and is authorized to initiate and prosecute alleged violations of the Act per Fla Stat. § 27.02(1). Defendant Campbell is sued in his official capacity, as are his agents and successors.

20. Defendant David A. Aronberg is the state attorney of the Fifteenth Judicial Circuit of Florida and is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. It is unknown to what extent Defendant Aronberg will enforce the Act, and until this is known, he is sued in his official capacity, as are his agents and successors.

21. Defendant Florida Department of Health is the state agency authorized to investigate potential violations of the Act and, in some instances, impose penalties for violations of the Act on providers of abortion care, including members of the clinic's staff and perhaps others.

Defendant Joseph Ladapo, M.D., is Secretary of the Department and is sued in his official capacity as Secretary of Health for the State of Florida, as are his agents and successors.

22. Defendant Florida Board of Medicine is part of the Florida Department of Health. The Florida Board of Medicine exercises supervisory powers over the state's physicians and conducts disciplinary proceedings and imposes penalties against physicians and their assistants. Defendant Florida Board of Medicine is authorized to impose penalties on providers of abortion care for violations of the Act. Defendant David Diamond, M.D., is the Chair of the Florida Board of Medicine and is sued in his official capacity as Chair of the Florida Board of Medicine.

23. Defendant Florida Board of Osteopathic Medicine is part of the Florida Department of Health. Pursuant to Florida law, the Florida Board of Osteopathic Medicine is authorized to impose penalties on providers of abortion care. Defendant Sandra Schwemmer, D.O., is the Chair of the Florida Board of Osteopathic Medicine and is sued in her official capacity as Chair of the Florida Board of Osteopathic Medicine, as are her agents and successors.

24. Defendant Florida Board of Nursing is part of the Florida Department of Health. Pursuant to Florida law, the Florida Board of Nursing exercises supervisory powers over the state's registered nurses, licensed practical nurses, and advanced practice registered nurses and conducts disciplinary proceedings and imposes penalties against them. Florida Board of Nursing is authorized to impose penalties on nursing professionals who participate in abortion care for violations of the Act. Defendant Maggie Hansen, M.H.Sc, R.N., is the Chair of the Florida Board of Nursing and is sued in her official capacity as Chair of the Florida Board of Nursing, as are her agents and successors.

25. Defendant Florida Agency for Health Care Administration is authorized to license abortion clinics or refuse to renew licenses for failure to comply with the Act. As Secretary of the Agency, Defendant Simone Marstiller, J.D. is sued in her official capacity as Secretary of the Agency as are her agents and successors.

IV. HISTORICAL PERSPECTIVE ON ABORTION RIGHTS IN FLORIDA

26. Florida law currently bans abortions after a fetus attains viability, which is defined as "the stage of fetal development when the life of a fetus is sustainable outside the womb through standard medical measures." § 390.011(13), Fla. Stat.; *see also* § 390.01112, Fla. Stat.

27. Section 390.0111, Florida Statutes, sets forth statutory requirements for the provision of abortion care in Florida, including the current requirements that abortions be performed prior to the third trimester of pregnancy, only by physicians, and only after obtaining informed consent from the patient.

28. Section 4 of HB 5 amends section 390.0111 to prohibit and criminalize the provision of abortion care after fifteen weeks LMP, approximately two months before a pregnancy can be viable. Fla. HB 5, § 4 (2022) (to be codified at § 390.0111(1), Fla. Stat.). Section 3 of HB 5 amends section 390.011 to provide definitions for Section 4's operative terms. Fla. HB 5, § 3(6)–(7) (to be codified at § 390.011(6)–(7)).

29. The Act contains only two extremely limited exceptions. First, an abortion after fifteen weeks LMP may be performed if "the termination of the pregnancy is necessary to save the pregnant woman's life or avert a serious risk of substantialand irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition," and either two physicians certify this conclusion "in [their]reasonable medical judgment" in writing, or a sole physician certifies that the risks are "imminent" and "another physician is not available for consultation." F.S. § 390.0111(1)(a)–(b).

30. Second, the Act permits an abortion after 15 weeks LMP when "[t]he fetus has not achieved viability under § 390.01112 and two physicians certify in writing that, in [their] reasonable medical judgement, the fetus has a fatal fetal abnormality." Fla. HB 5, § 4 (to be codified at § 390.0111(1)(c), Fla. Stat.). The Act defines "fatal fetal abnormality" to mean "a

terminal condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb and will result in death upon birth or imminently thereafter." *Id.* § 3 (to be codified at § 390.011(6), Fla. Stat.).

31. A violation of HB 5 constitutes a third-degree felony; "any person" who "willfully performs" or "actively participates" in an abortion in violation of the law is subject to criminal penalties, including imprisonment of up to five years and monetary penalties up to $5,000 for a first offense. §§ 390.0111(10)(a), 775.082(8)(e), 775.083(1)(c), Fla. Stat.

32. Physicians and other health care professionals are subject to disciplinary action for violating the Act, including but not limited to revocation of their licenses to practice medicine and administrative fines of up to $10,000 for each violation. §§ 390.0111(13), 390.018, 456.072(2), 458.331(2), 459.015(2), 464.018(2), Fla. Stat.

33. In addition, abortion clinics may be prevented from renewing their clinic licenses for violations of the Act. Fla. Admin. Code R. 59A-9.020.

34. In addition, the Act requires extensive reporting requirements not required for any other similar procedure in the State of Florida, such as detailed information about each abortion performed and the number of abortion regimens prescribed or dispensed. Thus, after passing a draconian abortion law, the State is further requiring abortion clinics and facilities to become informers against their own patients, compelled to further violate the right of privacy of their patients who choose abortion, after the State has already done so, in further violation of Article 1, Section 23 of the Florida Constitution. Such compelled speech against one's own patient, and the requirement that medical personnel who provide abortion care must violate their Hippocratic oath by violating the privacy rights of their patients, constitutes compelled speech which is anathema to the state's obligation to guarantee the rights provided under the Florida Constitution.

35. The Act, by its terms, is scheduled to take effect on July 1, 2022. Fla. HB 5, § 8.

V. STATEMENT OF FACTS

36. Abortion is one of the safest medical procedures in the United States. Abortion, including pre-viability abortion after 15 weeks LMP, is much safer than continuing a pregnancy through to childbirth. A woman's risk of death associated with childbirth is approximately 12 to 14 times higher than her risk of death associated with abortion. In addition, every type of complication associated with pregnancy is more common among women who give birth than among those who have abortions.

37. Abortion is not only safe, but common. Approximately one in four women in this country will have an abortion. A majority of women having abortions (60%) already have at least one child.

38. Women seek abortions for a variety of deeply personal reasons, including familial, medical, and financial. Some women have abortions because they conclude that it is not the right time in their lives to have a child or to add to their families. For example, some decide to end a pregnancy because they want to pursue their education; some because they feel they lack the necessary economic resources or partner support or stability; some because they are concerned that adding a child to their family will make them less able to adequately provide and care for their existing children; some because they decide not to have children at all. Some women seek abortions to preserve their lives or their physical, psychological, and emotional health;some because they have become pregnant as a result of rape; and some because they areexperiencing intimate partner violence and do not wish to be further tethered to an abusive partneror to bring a child into an abusive environment. Some women decide to have an abortion becauseof an indication or diagnosis of a fetal medical condition or anomaly. Some families do not feel they have the resources—financial, medical, educational, or emotional—to care for a child with special needs or to simultaneously provide for the children they already have. The decision to terminate a

pregnancy for any reason is motivated by a combination of diverse, complex, and interrelated factors that are intimately related to the individual woman's values and beliefs, cultureand religion, health status and reproductive history, family situation, resources and economicstability.

39. Some women, such as the members, congregants, supporters of Plaintiff L'Dor Va-Dor and their families have an abortion because it is required by their religious faith. For Jews, all life is precious and thus the decision to bring new life into the world is not taken lightly or determined by state fiat. In Jewish law, abortion is required if necessary to protect the health, mental or physical well-being of the woman, or for many other reasons not permitted under the Act. As such, the Act prohibits Jewish women from practicing their faith free of government intrusion and thus violates their privacy rights and religious freedom. The most important institution in Jewish life is the family, which has withstood centuries of persecution and discrimination by clinging to values and ideals which are quintessential to the Jewish faith. By preventing Jews from making intimate, personal decisions about the size of their families, or when and under what circumstances to bring new life into the world, the Act not only threatens the lives, equality and dignity of Jewish women, the Act also threatens the integrity of the Jewish family and denies religious freedom to Jewish women and their families. As such, the Act establishes the religion of its proponents and prohibits the free exercise of the Jewish religion by prohibiting Plaintiff's members, congregants and supporters from exercising their religious beliefs in the most intimate decisions of their lives in consultation with their rabbis, medical providers and their family and by penalizing those who dare to practice their Jewish religious faith.

40. Moreover, the Jewish people are just one group among all the people of Florida whose religious beliefs about when life begins and when abortion is proper runs afoul of the Act. Thus, the Act violates the religious freedom of all Floridians who do not share the religious views reflected and codified in the Act.

41. The Act also discriminates against those who are most vulnerable, by specifically failing to permit abortion due to considerations of the mental health and emotional distress that a woman could face if forced to bring a child into the world against her will. There is no rational basis nor compelling state interest to justify such an exclusion.

42. Due to a range of factors, including lack of access to affordable health care, approximately 75% of people obtaining abortion care have incomes that classify them as poor or low-income. Centuries of systemic racism have also contributed to inequities in health care access and economic inequality; as a result, the majority of patients seeking abortion care are Black, Indigenous, or women of color, and these same populations face disproportionately high rates of maternal mortality and comorbidities that increase the health risks associated with pregnancy.

43. Forcing a woman to become a parent against her will not only discriminates against Jews, it also violates the rights of the mentally ill, minorities, the poor and oppressed, and those who do not wield political and economic power in the State of Florida.

44. The Act serves no governmental interest and in fact is harmful to the interests of the people of Florida. Those societies that respect women's rights and grant women autonomy over their own reproductive system and their own bodies prosper in every way, while those societies who treat women as the property of the State, always suffer and decline. Thus, the injunctive relief sought by the Plaintiff will serve the public interest.

45. No fetus is viable at 15 weeks of pregnancy. Fifteen weeks LMP is approximately two months before the point in pregnancy at which fetal viability may occur. Like fully developed people, all fetuses are different and thus they reach viability at different stages and some never do. To base criminal charges on such an elusive definition and to threaten criminal charges against physicians and a wide dragnet of others who may be deemed to have assisted a woman in obtaining an abortion will have a strong chilling effect upon the women of this state who do not share the

views of a Governor who is all too willing to target even the most powerful entities in Florida who defy his will and thus would not hesitate to persecute and prosecute those who defy the Act or who cannot understand its vague terms.

46. In general matter, people who decide to end a pregnancy try to do so as early as possible in their pregnancy. As a result, most abortions in Florida occur prior to 14 weeks LMP. However, women seek abortion in the second trimester for a number of reasons.

47. For example, some patients, especially those with irregular menstrual cycles or who do not experience pregnancy symptoms, may not even suspect they are pregnant for weeks or months. Because of the way pregnancy is dated, a missed period occurs at the earliest at 4.5 to 5 weeks LMP. Patients may be further delayed in confirming the pregnancy, researching and considering their options, contacting an abortion provider, and scheduling an appointment.

48. Many patients seek abortions after 15 weeks of pregnancy because they cannot raise funds for the procedure and related expenses, such as transportation and childcare.

49. Other patients have difficulty arranging time off from work or school, finding childcare, and arranging transportation. Other patients, including women who initially intended to carry their pregnancies to term, may decide to terminate a pregnancy because their life circumstances change: they lose a job, they break up with a partner, or a family member becomes ill. Others experience health conditions that are caused or exacerbated by pregnancy or receive a diagnosis of a serious fetal condition or a serious medical condition of their own which makes carrying a fetus to term risky and medically inadvisable. These health conditions may first arise or worsen after 15 weeks LMP, and many fetal conditions are not able to be identified until after 15 weeks LMP, but these conditions often do not fit within the Act's very limited exceptions.

50. For all these reasons, nearly 5,000 patients obtain abortion care after 14 weeks LMP in Florida each year. As a result of the Act, thousands of patients who need abortion care after 15

weeksLMP will be left with few options. Some may attempt to travel extremely long distances to obtaincare in another state if such care is still available. But doing so will impose substantial economic and logistical burdens, and will not be possible for many patients, 75% of whom are poor. Some patients may decide to end their pregnancies on their own, outside the medical system. Others will be prevented from obtaining abortion care entirely and thus will be forced to continue their pregnancies and have children against their will.

51. Being forced to continue a pregnancy against her will can pose a risk to a woman's physical, mental, and emotional health, and life, as well as to the stability and well-being of her family, including her existing children. The Act mandates the medically riskier course of maintaining a pregnancy, regardless of whether continuing the pregnancy is contrary to an individual patient's will, and regardless of the specific health risks it imposes upon her.

52. Because of the Act's severe penalties, absent an injunction, abortion providers will be forced to stop providing care to patients seeking abortions after 15 weeks LMP, contrary to their good-faith medical judgment and their patients' needs and wishes. With no one available to provide such care in Florida, Florida women will suffer irreparable harm to their autonomy, their well-being, and their dignity, in violation of their right of privacy under the Florida Constitution. Plaintiff, its members, congregants and supporters, who do not share the religious views reflected in the Act, will suffer additional irreparable harm by having their religious freedom under the Florida Constitution violated. This failure to maintain the separation of church and state, like so many other laws in other lands throughout history, threatens the Jewish family, and thus also threatens the Jewish people by imposing the laws of other religions upon Jews. There is no adequate remedy of law for the irreparable harm that will be caused by the Act's violation of the Constitutional rights of the Plaintiff, its members, congregants, supporters and their families.

53. To obtain injunctive relief, Plaintiff must demonstrate a substantial likelihood of

success on the merits, irreparable harm to the Plaintiff, no adequate legal remedy, that the equities are with the Plaintiff and that an injunction would not disserve the public interest. This complaint amply demonstrates that all these prerequisites have been met and clearly demonstrates that an injunction would serve the public interest.

54. In addition, the Act is unconstitutionally void for vagueness by failing to specify the penalties for its violation and by failing to identify who could be prosecuted under its vague, incomprehensible terms such as "willfully performs" and "actively participates" in an abortion. The Act does not make clear if a woman who has an abortion "actively participates" in the abortion and is thus subject to prosecution under the Act. Nor does the Act make clear if those who assist a woman to obtain an abortion in Florida by giving her a ride to the clinic, gives her directions, works as staff at a clinic, provides rabbinic counseling, advises a woman that it is in her best interest to have an abortion, would be subject to prosecution for "actively" participating in an abortion.

55. Our legal system abhors such traps for the unwary and prohibits such vague laws which could impose Draconian penalties upon those who exercise their fundamental rights such as privacy and religious freedom in making their own health care decisions, especially when such women are among the vulnerable and/or minority populations. By not defining the term "actively participates" the Act criminalizes behavior about which those of ordinary intelligence would have to guess as to its meaning and whether it applies to them.

56. Florida courts do not permit such vague laws which have an extreme chilling effect on basic, fundamental rights, especially the right to abortion, which the Florida Supreme Court considers among the most basic and fundamental of all rights as expressed in *In re TW* (Id.).

57. In order to prevent this chilling effect upon Constitutional rights in Florida, by criminalizing behavior that had been the law of the land for nearly half a century, and in order not

to violate the right of privacy, freedom of religion and the separation of church and state, this Court should hold the Act unconstitutional as written and as it would be applied, and/or void for vagueness. The status quo ante has served Florida well for many years and should be preserved with the granting of a temporary and a permanent injunction, and/or declaratory relief.

58. The Act is arbitrary and capricious as written, and as likely to be applied. The determination that a fetus becomes a human being at 15 weeks is irrational and there is nothing in the Act which explains why this date has been chosen to begin the imposition of harsh penalties. The President of the Senate, Wilton Simpson replied when asked to explain the Act, "After 15 weeks, that is a child. And so, the argument is, should you kill a baby after 15 weeks because it was (conceived) under certain circumstances?" What criteria are used to determine that a fetus becomes a child at 15 weeks, and not at 14 or 16 weeks is not explained in the Act, by Senator Simpson or by anyone else because there is no rational basis to make such a determination. His remarks and the legislative intent of the Act has a chilling effect upon those who undergo or assist in an abortion after 15 weeks from the time that the State calculates conception, which according to the President of the Senate constitutes murder. There is also no rational basis for permitting abortion for a fetus with a fatal disease if not viable, but denying this right to a woman carrying a fetus with a fatal disease that is viable.

COUNT I – RIGHT TO PRIVACY

59. Plaintiffs hereby reaffirm and reallege each and every allegation made in ¶¶ 1–58 above as if set forth fully herein.

60. The Act, on its face and/or, as it will be applied, violates the right to privacy of women seeking and obtaining abortions in the state of Florida, as guaranteed by Article I, section 23 of the Florida Constitution. Plaintiff's members and congregants, along with all other women have the right to be let alone from government intrusion into their private lives, as well as their

private religious decisions.

61. As a result of Defendants' enactment and intended enforcement of the Act, the right of privacy regarding decisions about abortion, as well as their right to make private health care decisions according to the private religious beliefs of the Plaintiff, its members, congregants, supporters and their families has been violated, resulting in irreparable harm to the Plaintiff.

COUNT II: VIOLATION OF RELIGIOUS FREEDOM AND THE SEPARATION OF CHURCH AND STATE

62. Plaintiff repeats the allegations of ¶¶ 1–58 above as if set forth fully herein.

63. As described herein, the Act violates the right of the Plaintiff, its members, Congregants and supporters from exercising their rights as Jews to freedom of religion in the most intimate decisions of their lives. By harming and threatening the Jewish family, and the rights of Jewish women, the Act does irreparable harm to the Jewish people.

64. The Jewish mother is widely praised, honored and cherished for her love and devotion to her husband, children and family, and for working with the father of their children to create a Jewish home, filled with love, joy and Jewish ideals.

65. These qualities of the Jewish home and its positive influence upon the children are threatened when women are forced to bear children against their will and the family is not free to determine the number of children they feel responsible, capable and ready to raise. When children are born outside of marriage, against the will of the mother, this harms the sanctity of the Jewish home and family, and does incalculable harm to Jewish women and all other women who believe that all children should be wanted children, whose parents are well equipped to care for them. Preventing families from enjoying the freedom to determine the number of children that they can raise responsibly, also does great harm to our society and shows a disregard for the sanctity of life, which is among the highest ideals of the Jewish people.

66. Among the many contributions of the Jewish people to the world is a reverence for

life and the belief that all human life is sacred. Plaintiff, its members, congregants, and supporters and their families do not require others to impose their religious views about when life begins and the sanctify of life in order to supplant and replace by judicial fiat and the power of the State the Jewish view of when life begins and the sanctity of life.

67. The Act reflects the views of Christian nationalists who seek to deny religious freedom to all others, including fellow Christians, under the arrogant notion that only they are capable of understanding God's law and judgments and the religious views of all others are false, evil and not entitled to respect or constitutional protections. Proponents of this way of thinking used their political power to enshrine their narrow religious views as the law of the State of Florida, which not only results in irreparable harm to Plaintiff and all others who espouse a different view, including many of their co-religionists, but it also threatens and harms the very framework or our Democracy, and the cherished ideal of the separation of church and state which our founders knew was essential to liberty and the reason why America has been a land of freedom and the envy of freedom-loving people throughout the world.

68. According to data from the Pew Research Center as reported by Jews For A Secular Democracy, an overwhelming 83% of American Jews are pro-choice and this number is almost assuredly an underestimate. Even those Jews rarely practice abortion, do not require the government to tell them what to do in such personal areas, and do not want the government to impose rules and regulations regarding abortion which contradict their beliefs and views and thus restrict or even prohibit their practice of Judaism in general or to regarding abortion in particular.

69. According to the National Council of Jewish Women (NCJW) "Judaism permits Abortion. Full stop. The Constitution gives us the right to have abortions. Full stop." This view reflects the view of most Jewish organizations, many of whom have led the effort to protect abortion rights as quintessential towards protecting the rights of women, Jews and all people and

which is essential in preserving the sanctity of life, and the Jewish goal, which is shared by many others, of living in a society where all children are wanted, cherished and loved children.

70. The Jewish people have often borne the brunt of the horrors that occur when the power of Christianity has merged with the power of the state. The result has been Inquisitions, Crusades, ghettoes and pogroms for the Jews and the eventual loss of freedom for everyone else. The founding fathers, well aware of such evils in Europe, sought to create a form of government free of such horrors and so they enshrined in our founding documents such as the Declaration of Independence and the Constitution of the United States the principle of the separation of church and state as a guiding principle of our democracy, as they eloquently expressed in the letter to the Baptists of Danbury, and the Treaty of Tripoli. The founders viewed this separation as the bedrock of our democracy, essential to freedom and a prerequisite to enjoying the blessings of America. As they understood so well, when this wall of separation experiences a crack or begins to crumble, as is the case with the passage of the Act, the Jewish people are among the first to suffer, followed by the suffering of all others and the collapse of society as well.

71. The architects of the Act have taken a first step towards the dismantling of that wall and returning the state of Florida and our nation back to a time when the merger of Christianity and government produced genocide, slavery, misogyny, and the denial of equal rights and in many cases, any rights at all to those who did not share the gender, race or religion of those in power.

72. The Jewish people have been among those who strongly believe in the principle of the separation of Church and state in order to keep America as a bastion of freedom and a source of hope for people around the world rather than to take us back to the dark days of the past when the light of freedom flickered.

73. Thus, as written and potentially applied the Act violates the rights of Plaintiff and its members, congregants and supporters by unconstitutionally establishing religion in the context of

decisions regarding abortion, and prohibiting and penalizing the practice of Jewish law in matters of abortion and by establishing their religious view of when life begins on Jews and others, which prohibits and penalizes Jews who practice and live according the Jewish view of when life begins.

74. The Act establishes the onset of human life at 15 weeks after conception which is contrary to the Jewish view. Most Jews such as Plaintiff, its members and congregants do not believe that all the rights of personhood are conferred upon a fetus. In fact, under traditional Jewish law life begins at birth and if a fetus poses a threat to the health or emotional well-being of its mother, at any stage of gestation up until birth, Jewish law not only entitles, but requires the mother to abort the pregnancy and protect herself. Thus, if a Jewish mother were to practice Jewish law in Florida in the context of abortion after the enactment of the Act, she would be considered party to a crime and in the eyes of the some of the proponents of the Act, she and her physician and staff would be considered murderers.

75. As a strong proponent of ecumenical harmony and good will, L'Dor Va-Dor also makes this legal challenge not only on behalf of Jews, but also on behalf of the majority of Christians who do not share the beliefs reflected in the Act, and who believe in a woman's right to bodily autonomy, as well as those of all religious faiths and those of no religious faith at all, who share a belief in the American ideal of the separation of church and state.

76. Accordingly, the Act violates the establishment and the free exercise clause of the guarantee of religious freedom provided by the Florida Constitution in Article 1, Section 3. As a result of Defendant's Constitutional violation, the Plaintiff, its members, congregants, supporters and their families and all Floridians have suffered irreparable harm.

COUNT III: VIOLATION OF DUE PROCESS

77. Plaintiff repeats the allegations of paragraphs 1 to 58 as if fully set forth herein.

78. Article I, Section 9 of the Florida Constitution provides that no person in the State

of Florida may be deprived of their right to life, liberty or the pursuit of happiness without Due Process of Law. This provision prohibits laws, like the Act, which are vague and leave plenty of room for the government to arbitrarily and capriciously enforce the Act.

79. A law is unconstitutionally vague when people of common intelligence must necessarily guess at its meaning. Laws, such as the Act, which provide criminal penalties, which could even include murder, are considered unconstitutionally vague when they invite selective, arbitrary and discriminatory enforcement, as written or applied, and thus have a chilling effect upon the exercise of constitutional rights. The vagueness in the statute regarding the penalties for violation of the act, those who are subject to these penalties because they have "actively participated" in an abortion, and other vague provisions of the Act, invites arbitrary enforcement, especially with an administration eager to punish those who disagree with the Governor.

80. The cut-off date of 15 weeks which requires people to guess when gestation began, and thus when a fetus becomes a human being, and is thus entitled to protection under the Act, is arbitrary and capricious, and lacks any support or foundation for this determination in the law.

81. The Act violates due process under the Florida Constitution as provided in Article 1, Section 9. As a result of Defendant's violation of their constitutional rights, the Plaintiff, its members, congregants, supporters and their families and all Floridians have been harmed.

COUNT IV: VIOLATION OF EQUAL PROTECTION

82. Plaintiff repeats the allegations of ¶¶ 1–58 above as if set forth fully herein.

83. The Act excludes any exceptions of its drastic restrictions on abortion rights due to the adverse mental health effects of forcing pregnancy upon a woman.

84. There is no rational basis nor compelling state interest in ignoring the psychological harm inflicted upon women by forcing them to carry a pregnancy to term and to bear a child

against her will, especially if the pregnancy is the result of rape, incest or other traumatic circumstances. Regardless of how devastating the psychological harm would be from forcing parenthood upon a woman against her will, while exceptions are made for other reasons, no exception is made due to mental health considerations. In the case of rape, after a rapist has taken control of a woman's body by force, the state of Florida would take further control of her body if the Act takes effect and she would be forced to deliver the child of her rapist, regardless of the trauma this will cause the woman. The trauma involved in such loss of control over her body is well established and well known to mental health practitioners.

85. On June 7, in response to yet another deadly shooting in Uvalde, Texas, Governor Ron DeSantis signed a bill that will require mental health "crisis intervention" training for on-campus officers. The new law also requires that 80 percent of employees at all schools receive training in "youth mental health awareness and assistance," and recognizes that under certain circumstances, mental health concerns can represent a crisis in one's life, especially to the young.

86. The Florida Constitution provides in Article 1, Section 2 that "All natural persons, female or male alike, are equal before the law and have inalienable rights." By allowing other considerations to be considered, but explicitly eliminating the mental health consequences of forced parenthood upon a woman, regardless of the terrible circumstances which may surround the pregnancy, the Act discriminates against the mentally ill or those why may suffer mental illness as the result of trauma in their lives.

87. The Act discriminates against those who suffer mental illness or may suffer mental distress as a result of the emotional distress of coerced pregnancy. Accordingly, the Act violates Article 1, Section 2 of the Florida Constitution. This violation of equal protection causes irreparable harm to Plaintiff, its members, congregants, supporters and their families, some of whom suffer and/or will suffer from mental illness and/or distress as a result of the Act.

COUNT V: VIOLATION OF FLORIDA RELIGIOUS FREEDOM RESTORATION ACT

88. Plaintiff repeats the allegations of ¶¶ 1–58 and 63 to 76 as if set forth fully herein.

89. Florida's Religious Freedom and Restoration Act, Fla. Stat. § 761.01, et seq. (FRFRA) prohibits the government from substantially burdening a person's exercise of religion even if the burden results from a law of general applicability, unless the government can demonstrate that application of the burden to the person: (1) furthers a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.

90. FRFRA may be asserted as a claim or defense in judicial proceedings and provides the appropriate relief in either case.

91. As has been demonstrated herein, the Act substantially burdens the Plaintiff's members, congregants and supporters in their exercise of their religious beliefs and makes it impossible for Jews to practice their religion and/or to follow Jewish practice regarding abortion.

92. Jewish law not only permits, it requires a woman to undergo an abortion when necessary to protect the mother physically, emotionally and in other ways as well. The Act does not permit a woman's emotional well-being from even being considered as a factor in obtaining an abortion after 15 weeks of gestation and thus it violates the rights of Jewish women as well as women of all other religions or of no religion from exercising their religious freedom.

93. The right to abortion is a critical aspect of Jewish practice. Jewish women's groups such as Hadassah and the National Council of Jewish Women are at the forefront of the effort to protect abortion rights.

94. FRFRA guarantees the right of each person to exercise freedom of religion and/or to exercise the freedom to engage in a Jewish practice, such as the having an abortion when Jewish law requires to protect the best interests of the woman without governmental interference.

95. The Act thus establishes a narrow, Christian view of abortion for Jews and all others and prohibits Jews and others from engaging in this practice without governmental interference.

96. There is no compelling state interest furthered by the Act.

97. Even if it served a compelling state interest, the Act is not the least restrictive means to accomplish its goals. The State could have provided a religious exemption to avoid trampling on the rights of Jews and others, and instead, there is no exception for rape, incest, mental distress and the right to practice one's faith which requires abortion in some circumstances that the Act prohibits.

98. The Act could also have provided counseling or other measures, such as persuasion, to try to accomplish its goals, instead of coercion and the threat of criminal prosecution.

99. Because Jewish law requires a woman to undergo an abortion at all stages of pregnancy under many circumstances not permitted by the Act, the Act prevents and prohibits Jewish women and their families to practice their faith.

100. By adopting strict penalties for violations of the Act, the Act runs roughshod over the rights of Plaintiff, its members, congregants and supporters in the practice and exercise of their fundamental rights.

101. The Defendants have no compelling state interest in placing such severe restrictions upon the rights of Jewish women and their families.

102. As a result of the Defendants' violations of FRFRA, the Plaintiff, its members, congregants and supporters have been harmed. FRFRA provides that a prevailing Plaintiff under this law is entitled to recover reasonable attorney's fees from the Defendants.

104. Plaintiff has agreed to pay the undersigned attorney a reasonable fee for his services if they prevail in this matter.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

1. Issue a declaratory judgment that HB 5 violates the right of Plaintiff, its female members, congregants, and supporters and their families and/or all women of Florida to privacy as protected in Article 1, Section 23 of the Florida Constitution due to its unreasonable restrictions upon decisions surrounding abortion, reproduction and personal autonomy. Plaintiff further requests that this Honorable Court find that because HB 5 violates the provisions of the Florida Constitution Article 1, section 23, it is therefore void, unenforceable, invalid and of no legal effect.

2. Issue a declaratory judgment that HB 5 violates the rights of Plaintiff, its members, congregants, supporters and their families as well as all others to be free to exercise their religious, spiritual and/or ethical values and beliefs, free from government intrusion; and to find that HB 5 violates the establishment and the free exercise clause of the Florida Constitution as expressed in Article 1 section 3 and is therefore void, unenforceable, invalid and of no legal effect.

3. Issue a declaratory judgment that HB 5 violates the rights of Plaintiff, its members, congregants, supporters and their families, as well as many others in Florida by depriving them of their fundamental right to life, liberty and the pursuit of happiness, and other rights described in this complaint without due process of law; and to further find that because of this violation, HB 5 violates the due process clause of the Florida Constitution as expressed in Article 1, section 9, and is therefore void, unenforceable, invalid and of no legal effect.

4. Issue a declaratory judgment that HB 5 violates Article 1, Section 2 of the Florida Constitution by denying equal protection under the law and by discriminating against those with mental illness or who could suffer adverse mental health consequences as the result of the Act, and therefore the Act is void, unenforceable, invalid and of no legal effect.

5. Issue a declaratory judgment that HB 5 violates the FRFRA and therefore is invalid,

unconstitutional and of no legal force and effect.

6. Issue temporary and permanent injunctive relief restraining the enforcement, operation and/or execution of HB 5 by enjoining Defendants, their officers, agents, servants, employees, appointees, or successors, as well as those in active concert or participation with any of them, from enforcing, threatening to enforce, or otherwise applying the provisions of the Act in Florida due to its violation of the rights of Plaintiff, its members, congregants, supporters and families and all other people in Florida as provided in the Florida Constitution, Article 1, sections 2, 3, 9, and/or 23.

7. Issue temporary and permanent injunctive relief restraining the enforcement, operation and/or execution of HB 5 by enjoining Defendants, their officers, agents, servants and successors, from enforcing, threatening to enforce or otherwise applying the provisions of the Act in Florida due to its violation of FRFRA.

8. Grant Plaintiff's costs under all counts and attorney's fees under Count 5.

9. Grant such other and further relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Complaint and its attached Exhibit A has been sent by electronic mail to the defendants or their representatives, as listed on the service list below, this June 16, 2022.

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EXHIBIT A

CHAPTER 2022-69
Committee Substitute for House Bill No. 5

An act relating to reducing fetal and infant mortality; amending s. 381.84, F.S.; revising the purpose and requirements for the Comprehensive Statewide Tobacco Education and Use Prevention Program; revising a provision relating to a certain report to conform to changes made by the act; creating s. 383.21625, F.S.; providing a definition; requiring the Department of Health to contract with local healthy start coalitions for the creation of fetal and infant mortality review committees in all regions of the state; providing requirements for such committees; requiring local healthy start coalitions to report the findings and recommendations developed by the committees to the department annually; requiring the department to compile such findings and recommendations in a report andsubmit such report to the Governor and Legislature by a specified date andannually; authorizing the department to adopt rules; amending s.390.011, F.S.; revising and providing definitions; amending s. 390.0111, F.S.; prohibiting a physician from performing a termination of pregnancy if the physician determines the gestational age of a fetus is more than a specified number of weeks; providing an exception; amending s. 390.0112,F.S.; revising a requirement that the directors of certain medical facilities submit a monthly report to the Agency for Health Care Administration; requiring certain physicians to submit such report to the agency; requiringthe report to be submitted electronically on a form adopted by the agency, the Board of Medicine, and the Board of Osteopathic Medicine; requiring the report to include certain additional information; removing obsolete language; creating s. 395.1054, F.S.; requiring that certain hospitals participate in a minimum number of quality improvement initiatives developed in collaboration with the Florida Perinatal Quality Collabora- tive within the University of South Florida College of Public Health; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2), (3), and (7) of section 381.84, Florida Statutes, are amended to read:

381.84 Comprehensive Statewide Tobacco Education and Use Preven- tion Program.—

(2) PURPOSE, FINDINGS, AND INTENT.—It is the purpose of this section to implement s. 27, Art. X of the State Constitution. The Legislature finds that s. 27, Art. X of the State Constitution requires the funding of a statewide tobacco education and use prevention program that focuses on tobacco use by youth. The Legislature further finds that the primary goals of the program are to reduce the prevalence of tobacco use among youth, adults, ~~and~~ pregnant women, and women who may become pregnant; reduce per capita tobacco consumption; and reduce exposure to environmental tobacco

smoke. Further, it is the intent of the Legislature to base increases in funding for individual components of the program on the results of assessments and evaluations. Recognizing that some components will need to grow faster than inflation, it is the intent of the Legislature tofund portions of the program on a nonrecurring basis in the early years so that those components that are most effective can be supported as the program matures.

(3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department shall conduct a comprehensive, statewide tobacco education and use prevention program consistent with the recommendations for effective program components contained in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the CDC, as amended by the CDC. The program shall include the following components, each of which shall focus oneducating people, particularly pregnant women, women who may become pregnant, and youth and their parents, about the health hazards of tobacco and discouraging the use of tobacco:

(a) Counter-marketing and advertising; Internet resource center.—The counter-marketing and advertising campaign shall include, at a minimum, Internet, print, radio, and television advertising and shall be funded with a minimum of one-third of the total annual appropriation required by s. 27, Art. X of the State Constitution.

1. The campaign shall include an Internet resource center for copyrighted materials and information concerning tobacco education and use prevention, including cessation. The Internet resource center must be accessible to the public, including parents, teachers, and students, at each level of public and private schools, universities, and colleges in the state and shall provide links to other relevant resources. The Internet address for the resource center must be incorporated in all advertising. The information maintained in the resource center shall be used by the other components of the program.

2. The campaign shall use innovative communication strategies, such as targeting specific audiences who use personal communication devices and frequent social networking websites.

(b) Cessation programs, counseling, and treatment.—This program component shall include two subcomponents:

1. A statewide toll-free cessation service, which may include counseling, referrals to other local resources and support services, and treatment to the extent funds are available for treatment services; and

2. A local community-based program to disseminate information about tobacco-use cessation, how tobacco-use cessation relates to prenatal care and obesity prevention, and other chronic tobacco-related diseases.

(c) Surveillance and evaluation.—The program shall conduct ongoing epidemiological surveillance and shall contract for annual independent evaluations of the effectiveness of the various components of the program in meeting the goals as set forth in subsection (2).

(d) Youth school programs.—School and after-school programs shall use current evidence-based curricula and programs that involve youth to educate youth about the health hazards of tobacco, help youth develop skills to refuse tobacco, and demonstrate to youth how to stop using tobacco.

(e) Community programs and chronic disease prevention.—The department shall promote and support local community-based partnerships that emphasize programs involving youth, pregnant women, and women who may become pregnant, including programs for the prevention, detection, andearly intervention of tobacco-related chronic diseases.

(f) Training.—The program shall include the training of health care practitioners, tobacco-use cessation counselors, and teachers by health professional students and other tobacco-use prevention specialists who are trained in preventing tobacco use and health education. Tobacco-use cessation counselors shall be trained by specialists who are certified in tobacco-use cessation.

(g) Administration and management, statewide programs, and county health departments.—The department shall administer the program within the expenditure limit established in subsection (8). Each county health department is eligible to receive a portion of the annual appropriation, on a per capita basis, for coordinating tobacco education and use prevention programs within that county. Appropriated funds may be used to improve the infrastructure of the county health department to implement the comprehensive, statewide tobacco education and use prevention program. Each county health department shall prominently display in all treatment rooms and waiting rooms counter-marketing and advertisement materials in the form of wall posters, brochures, television advertising if televisions are used in the lobby or waiting room, and screensavers and Internet advertising if computer kiosks are available for use or viewing by people at the county health department.

(h) Enforcement and awareness of related laws.—In coordination with the Department of Business and Professional Regulation, the program shall monitor the enforcement of laws, rules, and policies prohibiting the sale or other provision of tobacco to minors, as well as the continued enforcement of the Clean Indoor Air Act prescribed in chapter 386. The advertisements produced in accordance with paragraph (a) may also include information designed to make the public aware of these related laws and rules. The departments may enter into interagency agreements to carry out this program component.

(i) AHEC tobacco-use cessation initiative.—The AHEC network may administer the AHEC tobacco-use cessation initiative in each county within the state and perform other activities as determined by the department.

(7) ANNUAL REPORT REQUIRED.—By January 31 of each year, the department shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that evaluates the program's effectiveness in reducing and preventing tobacco use and that recommends improvements to enhance the program's effectiveness. The report must contain, at a minimum, an annual survey of youth attitudes and behavior toward tobacco, as well as a description of the progress in reducing the prevalence of tobacco use among youth, adults, ~~and~~ pregnant women, and women who may become pregnant; reducing per capita tobacco consumption; and reducing exposure to environmental tobacco smoke.

Section 2. Section 383.21625, Florida Statutes, is created to read:

383.21625 Fetal and infant mortality review committees.—

(1) As used in this section, the term "department" means the Department of Health.

(2) The department shall contract with local healthy start coalitions for the creation of fetal and infant mortality review committees in all regions of the state to improve fetal and infant mortality and morbidity in each region. Each committee shall:

(a) Review and analyze rates, trends, causes, and other data related to fetal and infant mortality and morbidity in a geographic area.

(b) Develop findings and recommendations for interventions and policy changes to reduce fetal and infant mortality and morbidity rates.

(c) Engage with local communities and stakeholders to implement recommended policies and procedures to reduce fetal and infant mortality and morbidity.

(3) Each local healthy start coalition shall report the findings and recommendations developed by each fetal and infant mortality review committee to the department annually. Beginning October 1, 2023, the department shall compile such findings and recommendations in an annual report, which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(4) The department may adopt rules necessary to implement this section.

Section 3. Subsections (6) and (7) of section 390.011, Florida Statutes, are renumbered as subsections (7) and (8), respectively, present subsections (8) through (13) are renumbered as subsections (10) through (15),

respectively, present subsection (6) is amended, and new subsections (6) and (9) are added to that section, to read:

390.011 Definitions.—As used in this chapter, the term:

(6) "Fatal fetal abnormality" means a terminal condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb and will resultin death upon birth or imminently thereafter.

(7)~~(6)~~ "Gestation" means the development of a human embryo or fetus as calculated from the first day of the pregnant woman's last menstrual period ~~between fertilization and birth~~.

(9) "Medical abortion" means the administration or use of an abortion-inducing drug to induce an abortion.

Section 4. Subsection (1) of section 390.0111, Florida Statutes, is amended to read:

390.0111 Termination of pregnancies.—

(1) TERMINATION AFTER GESTATIONAL AGE OF 15 WEEKS ~~IN THIRD TRIMESTER~~; WHEN ALLOWED.—A physician may not perform a ~~No~~ termination of pregnancy if the physician determines the gestational age of the fetus is more than 15 weeks ~~shall be performed on any human being in the third trimester of pregnancy~~ unless one of the following conditions is met:

(a) Two physicians certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman's life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman otherthan a psychological condition.

(b) The physician certifies in writing that, in reasonable medical judgment, there is a medical necessity for legitimate emergency medical procedures for termination of the pregnancy to save the pregnant woman's life or avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition, and another physician is not available for consultation.

(c) The fetus has not achieved viability under s. 390.01112 and two physicians certify in writing that, in reasonable medical judgement, the fetus has a fatal fetal abnormality.

Section 5. Section 390.0112, Florida Statutes, is amended to read:

390.0112 Termination of pregnancies; reporting.—

(1) The director of any medical facility in which abortions are performed, including surgical procedures and medical abortions, ~~including a physician's office,~~ shall submit a report each month to the agency. If the abortion is not performed in a medical facility, the physician performing the abortion shall submit the monthly report. The report must ~~may~~ be submitted electronically on a form adopted by the agency, the Board of Medicine, and the Board of Osteopathic Medicine which, ~~may~~ not include personal identifying information, and must include:

(a) ~~Until the agency begins collecting data under paragraph (e),~~ The number of abortions performed.

(b) The reasons such abortions were performed. If a woman upon whom an abortion is performed has provided evidence that she is a victim of human trafficking pursuant to s. 390.0111(3)(a)1.b.(IV), such reason must be included in the information reported under this section.

(c) For each abortion, the period of gestation at the time the abortion was performed.

(d) The number of infants born alive or alive immediately after an attempted abortion.

(e) ~~Beginning no later than January 1, 2017,~~ Information consistent with the United States Standard Report of Induced Termination of Pregnancy adopted by the Centers for Disease Control and Prevention.

(f) The number of medication abortion regimens prescribed or dispensed.

(2) The agency shall keep such reports in a central location for the purpose of compiling and analyzing statistical data and shall submit data reported pursuant to paragraph (1)(e) to the Division of Reproductive Healthwithin the Centers for Disease Control and Prevention, as requested by the Centers for Disease Control and Prevention.

(3) ~~If the termination of pregnancy is not performed in a medical facility, the physician performing the procedure shall be responsible for reporting such information as required in subsection (1).~~

(3)~~(4)~~ Reports submitted pursuant to this section shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be revealed except upon the order of a court of competent jurisdiction in a civil or criminal proceeding.

(4)~~(5)~~ Any person required under this section to file a report or keep any records who willfully fails to file such report or keep such records may be subject to a $200 fine for each violation. The agency shall be required to impose such fines when reports or records required under this section have not been timely received. For purposes of this section, timely received is defined as 30 days following the preceding month.

Section 6. Section 395.1054, Florida Statutes, is created to read:

395.1054 Birthing quality improvement initiatives.—A hospital that provides birthing services shall at all times participate in at least two quality improvement initiatives developed in collaboration with the Florida Perinatal Quality Collaborative within the University of South Florida College of Public Health.

Section 7. For the 2022-2023 fiscal year, the sum of $1,602,000 in recurring funds from the General Revenue Fund is appropriated to the Department of Health for the purpose of establishing fetal and infant mortality review committees under s. 383.21625, Florida Statutes.

Section 8. This act shall take effect July 1, 2022.

Approved by the Governor April 14, 2022.

Filed in Office Secretary of State April 14, 2022.