

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

RIGHT BY YOU,

Plaintiff,

v.

**THE STATE OF MISSOURI; ANDREW
 BAILEY**, in his official capacity as Attorney
 General of Missouri; and **MELESA
 JOHNSON**, in her official capacity as Jackson
 County Prosecuting Attorney and on behalf of a
 Defendant Class of all Missouri Prosecuting
 Attorneys,

*Defendants.*¹

CASE NO. _____

Division No.

PETITION FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiff Right By You hereby alleges in this petition for injunctive and declaratory relief:

INTRODUCTION

1. This is a challenge to two laws that flagrantly violate the constitutional Right to Reproductive Freedom: Missouri's Parental Consent and Notice Requirement, § 188.028, RSMo, and Missouri's Ban on Abortion Support, § 188.250, RSMo.² The laws

¹ Because this lawsuit alleges that a statute is unconstitutional, a copy of this filing will be served on the Missouri Attorney General, Mo. Sup. Ct. R. 87.04, and notice will be provided to the speaker of the house of representatives and the president pro tempore of the senate within fourteen days of filing, § 1.185, RSMo.

² All statutory citations are to Missouri Revised Statutes (2016), as updated, unless otherwise noted.

1) bully pregnant young people without parental support into giving birth, and 2) threaten legal action against and undermine the core activities of Good Samaritans who seek to help young people effectuate their own decisions about their pregnancies with dignity.³

2. On November 5, 2024, Missourians voted to enshrine the Right to Reproductive Freedom in their Constitution. That includes “the right to make and carry out decisions about all matters relating to reproductive health care, including but not limited to . . . abortion care.” Mo. Const. art. I, § 36.2.

3. Under the Right to Reproductive Freedom, “[n]o person shall be penalized, prosecuted, or otherwise subjected to adverse action based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to . . . abortion.” *Id.* § 36.5.

4. “Nor shall any person *assisting a person in exercising their right to reproductive freedom* with that person’s consent be penalized, prosecuted, or otherwise subjected to adverse action for doing so.” *Id.* (emphasis added).

5. Further, “[t]he Government shall not discriminate against persons providing or obtaining reproductive health care or *assisting another person in doing so.*” *Id.* § 36.6 (emphasis added).

6. The Missouri Constitution prohibits the State and its officials from “den[ying], interfer[ing] with, delay[ing], or otherwise restrict[ing]” the right to

³ This Complaint uses “young person” as shorthand for an unemancipated person under age eighteen.

reproductive freedom “unless the Government demonstrates that such action is justified by a compelling governmental interest achieved by the least restrictive means.” *Id.* § 36.3.

7. “[A] governmental interest is compelling *only if* it” 1) “is for the limited purpose and has the limited effect of improving or maintaining the health of a person seeking care,” 2) “is consistent with widely accepted clinical standards of practice and evidence-based medicine,” and 3) “does not infringe on that person’s autonomous decision-making.” *Id.* (emphasis added).

8. “*Any* denial, interference, delay, or restriction of the right to reproductive freedom shall be presumed invalid.” *Id.* (emphasis added).

9. The Right to Reproductive Freedom includes all people of childbearing age. Indeed, the text of the amendment makes clear that the right is expansive. It expressly extends to any “person” providing or facilitating an abortion in addition to any “person” seeking one. *Id.* § 36.1–6. The amendment leaves no doubt that laws that “delay” abortion care violate the Right to Reproductive Freedom. *Id.* § 36.3. And the amendment carefully cabins Missouri’s potential compelling interests in an abortion restriction, which in turn must be “achieved by the least restrictive means.” *Id.*

10. Missouri’s Parental Consent and Notice Requirement prohibits young people from obtaining an abortion unless they secure one parent’s consent and notify another, or undergo a stressful and potentially traumatic judicial bypass process. Missouri does not require parental involvement for any other pregnancy-related healthcare.

11. The Parental Consent and Notice Requirement violates the Right to Reproductive Freedom because it denies, delays, penalizes, and otherwise restricts young

people's ability to have an abortion. It also violates the Right to Reproductive Freedom because it discriminates against abortion seekers and those who seek to help them.

12. Specifically, the Parental Consent and Notice Requirement prevents some young people from even seeking an abortion. It forces other young people to travel out of state for abortion care. It delays young people's abortion care, with the attendant loss of abortion options, added medical risks, added expenses, and distress. It coerces some young people to divulge intimate information to strangers because they are seeking an abortion. And it undermines a young person's relationship with their doctor.

13. Missouri cannot demonstrate that the Parental Consent and Notice Requirement is justified by a compelling governmental interest because the requirement: 1) does not have the "limited purpose [or] . . . limited effect of improving or maintaining the health of a person seeking care," 2) is not "consistent with widely accepted clinical standards of practice and evidence-based medicine," and 3) "infringe[s] on . . . autonomous decision-making." *Id.* For example, the Parental Consent and Notice Requirement does nothing to help ensure that young people considering an abortion confide in a parent. Nor does it enhance the information, guidance, or support they receive. It does, however, disregard, burden, and punish young people's decision to end a pregnancy.

14. Missouri's Ban on Abortion Support prohibits anyone from providing financial or practical support to a young person seeking an abortion unless they comply with the Parental Consent and Notice Requirement—that is, secure one parent's consent

for the abortion and notify another, or undergo a stressful and potentially traumatic judicial bypass process.

15. The Ban on Abortion Support violates the Right to Reproductive Freedom because it denies, delays, penalizes, and otherwise restricts young people's ability to have an abortion. It also violates the Right to Reproductive Freedom because it discriminates against young people seeking an abortion and those who seek to help them. Specifically, Missouri's Ban on Abortion Support either 1) subjects young people to the harms of the Parental Consent and Notice Requirement, or 2) deprives young people of the financial and practical support they need to obtain an abortion, all upon the threat of civil penalties to their supporters.

16. By depriving some young people of critical financial and practical support, Missouri's Ban on Abortion Support forces them to remain pregnant, give birth, and become parents. It delays other young people's abortion care, with the attendant loss of abortion options, added medical risks, added expenses, and distress. And it isolates vulnerable young people from informed and compassionate adults who seek to help them. Missouri does not restrict the support that can be provided to young people seeking any other healthcare.

17. Missouri cannot demonstrate that the Ban on Abortion Support is justified by a compelling governmental interest because the Ban: 1) does not have the "limited purpose [or] . . . limited effect of improving or maintaining the health of a person seeking care," 2) is not "consistent with widely accepted clinical standards of practice and evidence-based medicine," and 3) "infringe[s] on . . . autonomous decision-making." *Id.*

Missouri's Ban on Abortion Support fails to provide any benefits because the Parental Consent and Notice Requirement itself fails to provide any benefits. At the same time, the Ban on Abortion Support disregards, burdens, and punishes the decision to end a pregnancy.

18. Defendants should be prohibited from enforcing the Parental Consent and Notice Requirement and Ban on Abortion Support (the "Challenged Abortion Restrictions") because they are violating Missourians' Right to Reproductive Freedom each day the restrictions are in effect.

19. Plaintiff Right By You's core activity is to openly help young people in Missouri effectuate their own decisions about their pregnancies with dignity even if they lack parental support. The Parental Consent and Notice Requirement directly undermines this core activity by 1) subjecting Right By You to third-party criminal liability if it were to help young people obtain an abortion in Missouri without parental involvement, and 2) preventing physicians in Missouri from providing abortion care to young people who have not complied with the requirement. Likewise, the well-founded and concrete threat of prosecution by the Attorney General and numerous prosecuting attorneys under the Ban on Abortion Support prevents Right By You from providing financial and practical support to young people seeking an abortion who are unable to comply with the Parental Consent and Notice Requirement.

20. Accordingly, Right By You seeks a declaration on behalf of itself, its staff and volunteers, and its clients that the Challenged Abortion Restrictions violate the Right to Reproductive Freedom under the Missouri Constitution. Right By You also seeks

preliminary and permanent injunctive relief on behalf of itself, its staff and volunteers, and its clients prohibiting Defendants from enforcing the Challenged Abortion Restrictions.

21. Without relief from this Court, the Challenged Abortion Restrictions will continue to deprive Right By You and its clients of their Right to Reproductive Freedom and thus continue to irreparably harm them.

PARTIES

I. Plaintiff

22. Right By You is fiscally sponsored by a 501(c)(3) nonprofit organization incorporated in California. It has an employee in Illinois and volunteers in and outside of Missouri, all of whom work remotely. Right By You's core activity is to openly help young people in Missouri effectuate their own decisions about their pregnancies with dignity even if they lack parental support. To that end, Right By You provides accurate, comprehensive, and non-judgmental counseling to young people throughout Missouri—including those without parental support—about: their pregnancy options; how to access contraception, prenatal care, and abortion care that is suitable for their unique needs in and outside of Missouri; and parenting and adoption resources. Right By You's counseling includes referrals to abortion providers in Missouri.

23. The Parental Consent and Notice Requirement directly undermines Right By You's core activity by severely restricting its ability to help young people effectuate their own decisions about their pregnancies with dignity even if they lack parental support. The requirement 1) subjects Right By You to third-party criminal liability if they were to help young people obtain an abortion in Missouri without parental involvement, and 2) prevents

physicians in Missouri from providing abortion care to young people who have not complied with the requirement. Further, the considerable time and money that Right By You must expend on providing information and emotional support to young people to mitigate the injuries that the requirement inflicts on them significantly limits the other services that Right By You can provide.

24. As part of its core activity, Right By You also seeks to provide financial and practical support to young people seeking an abortion. That includes: 1) funding abortions; 2) funding transportation, lodging, childcare, and other costs associated with accessing abortion care; 3) making abortion appointments and arrangements for such transportation and lodging; and 4) directly transporting young people. The well-founded and concrete threat of prosecution by the Attorney General and numerous prosecuting attorneys under the Ban on Abortion Support prevents Right By You from providing this support to young people who are unable to comply with the Parental Consent and Notice Requirement.

25. Right By You sues on behalf of itself, its staff and volunteers, and the young people it serves.

II. Defendants

26. The State of Missouri is a Defendant in this case. Missouri law charges Missouri with enforcing all Missouri laws, including the Parental Consent and Notice Requirement, § 188.028, RSMo; the Criminal Responsibility for Another Statute, § 562.041, a third-party liability statute under which Plaintiff Right By You could be held liable for an abortion provider's violation of the Parental Consent and Notice Requirement; and the Ban on Abortion Support, § 188.250, RSMo.

27. Attorney General Andrew Bailey is sued in his official capacity as the Attorney General of Missouri. He is the State’s chief legal enforcement officer and is charged with instituting any proceeding necessary to enforce a state statute, including the Parental Consent and Notice Requirement; Criminal Responsibility for Another Statute; and the Ban on Abortion Support. § 27.060, RSMo. Additionally, the Attorney General has “concurrent original jurisdiction throughout the state, along with each prosecuting attorney and circuit attorney within their respective jurisdictions, to commence actions for a violation of any provision of [chapter 188].” § 188.075(3), RSMo. The Ban on Abortion Support specifically authorizes the Attorney General to petition a court to enjoin conduct that would violate the ban “upon a showing that such conduct . . . [i]s reasonably anticipated to occur in the future.” § 188.250(5), RSMo.

28. Melesa Johnson is the Jackson County Prosecuting Attorney. She is sued in her official capacity and as a representative of a Defendant class of prosecuting attorneys who enforce Missouri’s criminal laws, including the Parental Consent and Notice Requirement and the Criminal Responsibility for Another Statute. *See* § 56.060(1), RSMo. Additionally, the Ban on Abortion Support authorizes Defendant Johnson and all prosecuting attorneys in the state to petition a court to enjoin conduct that would violate the ban “upon a showing that such conduct . . . [i]s reasonably anticipated to occur in the future.” § 188.250(5), RSMo.

ALLEGATIONS IN SUPPORT OF CLASS CERTIFICATION

29. Defendant Johnson is a member of the class of prosecuting attorneys in Missouri.

30. Defendant Johnson and all prosecuting attorneys in the state have the authority to enforce Missouri's criminal laws, including the Parental Consent and Notice Requirement and the Criminal Responsibility for Another Statute. § 56.060(1), RSMo.

31. Defendant Johnson and all prosecuting attorneys in the state also have the authority to bring a cause of action for injunctive relief against Plaintiff Right By You for a violation of the Ban on Abortion Support. § 188.250(5), RSMo.

32. There are 114 counties in Missouri and 115 prosecuting attorney offices, including the Prosecuting Attorney for the City of St. Louis, which is a city not within a county. The members of the prospective defendant class are thus so numerous that joinder of all members of the class would be impracticable.

33. The Challenged Abortion Restrictions authorize all members of the prospective defendant class to take action that violates young people's Right to Reproductive Freedom and Plaintiff's right to help them exercise that freedom, such that there is a common nucleus of operative facts and law.

34. Any defenses that could be raised by Defendant Johnson would have the same essential characteristics as the defenses of the prospective defendant class at large.

35. Defendant Johnson will fairly and adequately protect the interests of the prospective defendant class.

36. Defendant Johnson and the members of the prospective defendant class have the authority and responsibility to enforce the Challenged Abortion Restrictions and the Criminal Responsibility for Another Statute within their respective jurisdictions and, in doing so, will be acting under color of law.

JURISDICTION AND VENUE

37. This Court has original subject matter jurisdiction over this action under Sections 478.220, 526.010, and 527.010, RSMo, and Missouri Supreme Court Rules 87.01 and 92.01.4.

38. Venue is proper in this Court pursuant to Section 508.010, RSMo because Plaintiff Right By You seeks to provide financial and practical support to young people in Jackson County even if they cannot satisfy the Parental Consent and Notice Requirement, and thus the claims for relief arise in part in Jackson County. Venue is also proper in this Court under Section 508.010, RSMo because Jackson County Prosecuting Attorney Melesa Johnson maintains offices in Jackson County.

FACTUAL ALLEGATIONS

I. Abortion is Much Safer and Less Arduous Than Remaining Pregnant and Giving Birth, Especially for Young People

39. Even an uncomplicated pregnancy profoundly challenges a person's physiology and major organs: it dramatically increases their blood volume, forcing their heart to work twice as hard; strains their lungs; compresses the organs in their abdomen; and elevates their risks for blood clots and infections. And every pregnancy-related complication, including severe nausea and vomiting, gestational diabetes, and preeclampsia, is more common among patients giving birth than among those ending a pregnancy.⁴ Young people are at greater risk for certain pregnancy-related complications,

⁴ Nat'l Acads. of Scis., Eng'g, and Med., *The Safety and Quality of Abortion Care in the United States 1-16* (2018), <https://doi.org/10.17226/24950>.

such as preeclampsia. Yet, young people without parental support are less likely to obtain prenatal care.

40. Labor and delivery present their own medical risks and burdens. Labor can last anywhere from hours to days, be extremely painful, and involve tearing leading to incontinence and sexual dysfunction.⁵ It can entail profuse bleeding and end in a caesarean section, a major abdominal surgery that carries serious medical risks.⁶ And it can be mentally taxing and even traumatic.⁷

41. Notably, the risk of death associated with childbirth is more than twelve times higher than that associated with abortion.⁸ The United States has a significantly

⁵ See Elizabeth G. Raymond & David A. Grimes, *The Comparative Safety of Legal Induced Abortion and Childbirth in the United States*, 119 *Obstetrics & Gynecology* 215, 216-17 (2012); Laura Santhanam, *It's Time to Recognize the Damage of Childbirth, Doctors and Mothers Say*, PBS News Hour (May 7, 2021), <https://www.pbs.org/newshour/health/broken-tired-and-ashamed-how-health-care-fails-new-moms>.

⁶ *Id.*

⁷ *Id.*

⁸ Nat'l Acads. of Scis., Eng'g, & Med., *The Safety and Quality of Abortion Care in the United States* 75 tbl. 2-4 (2018).

higher rate of maternal mortality than other developed nations, which has only grown in recent years.⁹ In 2022, 817 women and girls died of maternal causes.¹⁰

42. Discrimination and bias in the healthcare system have resulted in alarming racial disparities in the maternal mortality rate.¹¹ Black people die from maternal causes at a substantially higher rate than white people. In 2022, the maternal mortality rate for Black people was approximately 2.5 times the rate for white people.¹² This disparity is not due to inherent differences but is the result of structural racism, anti-Blackness, and medical

⁹ Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2022*, CENT. DIS. CONTROL PREV. (2024), <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2022/maternal-mortality-rates-2022.pdf>. There is evidence that abortion bans have contributed to an increase in maternal mortality rates. In Texas, for example, the maternal mortality rate rose by 56% between 2019 and 2022, with a marked increase following Texas Senate Bill 8, which effectively banned abortion nearly a year before the Supreme Court overturned *Roe v. Wade*. See Erika Edwards *et al.*, *A Dramatic Rise in Pregnant Women Dying in Texas After Abortion Ban*, NBC News (Sept. 20, 2024), <https://www.nbcnews.com/health/womens-health/texas-abortion-ban-deaths-pregnant-women-sb8-analysis-rcna171631>. During that same time, the national maternal mortality rate rose by 11%. *Id.*

¹⁰ Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2022*, CENT. DIS. CONTROL PREV. (2024). Although most people with the capacity to become pregnant are women and girls, some transgender men, boys, and nonbinary people also have the capacity to become pregnant. See, e.g., Heidi Moseson *et al.*, *Development of an Affirming and Customizable Electronic Survey of Sexual and Reproductive Health Experiences for Transgender and Gender Nonbinary People*, 15(5) PLoS ONE: e0232154, at 2–3 (2020), <https://doi.org/10.1371/journal.pone.0232154>; Juno Obedin-Maliver & Harvey J. Makadon, *Transgender Men and Pregnancy*, 9 OBSTETRIC MED. 4, 4–6 (2016).

¹¹ See, e.g., Latoya Hill *et al.*, *Racial Disparities in Maternal and Infant Health: Current Status and Efforts to Address Them*, Kaiser Family Found., <https://www.kff.org/racial-equity-and-health-policy/issue-brief/racial-disparities-in-maternal-and-infant-health-current-status-and-efforts-to-address-them/> (Oct. 25, 2024).

¹² *Id.*

violence embedded in the healthcare system. Research consistently demonstrates that the healthcare system devalues Black lives and perpetuates harm through discriminatory practices, neglect, and institutional bias. Missouri has an even higher maternal mortality rate than the national average. Between 2018 and 2021, it was 25.7 deaths per 100,000 live births, compared to 23.5 deaths per 100,000 live births nationally.¹³ In Missouri, women who receive insurance through Medicaid have a pregnancy-related mortality rate that is 2.8 times higher than women who have private insurance.¹⁴

43. Moreover, infants born to minors are more likely to die in their first year of life than infants born to women over twenty.¹⁵ Compared with women over twenty, teenagers have higher rates of preterm birth, low birthweight, and neonatal mortality.¹⁶ Mortality rates are highest for infants of Black minors.¹⁷

44. Young people who become pregnant face compounding barriers to accessing affirming, dignified reproductive healthcare, which can deter them from accessing prenatal

¹³ NCHS, Maternal deaths and mortality rates: Each state, the District of Columbia, United States, 2018-2021, CENT. DIS. CONTROL PREV., <https://www.cdc.gov/nchs/maternalmortality/mmr-2018-2021-state-data.pdf>.

¹⁴ Mo. Dep't of Health, *A Multi-Year Look at Maternal Mortality: 2017-2021 Pregnancy Associated Mortality Review*, <https://health.mo.gov/data/pamr/pdf/2021-annual-report.pdf> (June 2024).

¹⁵ Racial and Ethnic Differences in Mortality Rate of Infants Born to Teen Mothers: United States, 2017–2018, <https://www.cdc.gov/nchs/products/databriefs/db371.htm>.

¹⁶ *Id.*

¹⁷ *Id.*

care and harm their postpartum health.¹⁸ Adolescents are twice as likely as their adult counterparts to experience postpartum depression, which is often exacerbated by isolation, lack of support, and systemic stigma. These impacts may interfere with parenting support, early childhood development, and the mental health of the parent beyond the postpartum period.¹⁹ Unlike adults, minors who become parents must also contend with stigma for “violat[ing] age norms for parenting”²⁰ and may face medical discrimination or outright denial of care—especially adolescents of color and those who are otherwise marginalized.

45. Abortion carries substantially fewer health risks for people of all ages than continuing a pregnancy through childbirth. Complications associated with abortion are exceedingly rare: nationwide, fewer than one-quarter of one percent (0.23%) of all abortion patients experience a complication that requires hospitalization, surgery, or a blood transfusion.²¹ In recent years, the abortion-related mortality rate has been 0.44 abortion-

¹⁸ Dena Javadi, Emma Sacks, Vanessa Brizuela, Kenneth Finlayson, Nicola Crossland, Etienne V. Langlois, Daniela Ziegler, Venkatraman Chandra-Mouli & Mercedes Bonet, *Factors that Influence the Uptake of Postnatal Care Among Adolescent Girls: A Qualitative Evidence Synthesis*, 8 BMJ Global Health 1 (2023), <https://doi.org/10.1136/bmjgh-2022-011560>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Upadhyay, U. D., Desai, S., Zlidar, V., Weitz, T. A., Grossman, D., Anderson, P., & Taylor, D. (2015). Incidence of Emergency Department Visits and Complications After Abortion. *Obstetrics & Gynecology*, 125(1), 175-183. doi:10.1097/aog.0000000000000603, at 129 tbl. 3.

related deaths per 100,000 abortions.²² This is lower than the mortality rate for colonoscopies, plastic surgery, dental procedures, and adult tonsillectomies.²³

46. Three methods of abortion are commonly used in the United States: medication abortion, aspiration abortion, and D&E abortion. Medication abortion involves providing medications that end a pregnancy and cause the uterus to expel its contents. This method may be safely used from the start of a pregnancy through eleven weeks gestation, as measured from the first day of a patient's last menstrual period ("lmp").²⁴ Aspiration abortion involves using suction to empty the uterus's contents. This method is typically used from six weeks lmp through fourteen to sixteen weeks lmp. D&E abortion involves using suction and medical instruments to empty the uterus's contents. This method is generally used beginning at fourteen to sixteen weeks lmp.

47. Like other healthcare providers, abortion providers are extensively trained—and have ethical, professional, and legal obligations—to obtain informed consent for medical treatment.²⁵ See, e.g., §§ 431.061, 431.063, RSMo. The informed consent process

²² Katherine Kortsmitt et al., *Abortion Surveillance—United States, 2018*, MMWR Surveillance Summaries, Nov. 27, 2020, at 7, <https://www.cdc.gov/mmwr/volumes/69/ss/pdfs/ss6907a1-H.pdf>.

²³ Nat'l Acads. of Scis., Eng'g, & Med., *The Safety and Quality of Abortion Care in the United States* 74-75 (2018), <https://doi.org/10.17226/24950> ("NASEM Report").

²⁴ 2022 Clinical Policy Guidelines for Abortion Care, at 19, National Abortion Federation, <https://prochoice.org/wp-content/uploads/2022-CPGs.pdf>.

²⁵ See *Informed Consent and Shared Decision Making in Obstetrics and Gynecology*, No. 819, ACOG (Feb. 2021), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/02/informed-consent-and-shared-decision-making-in-obstetrics-and-gynecology>; 2022 Clinical Policy Guidelines for Abortion Care at 3–4, National Abortion Federation, <https://prochoice.org/wp-content/uploads/2022-CPGs.pdf>.

entails collecting patients' medical histories and ensuring they are well-informed about the treatment. In the case of an abortion, that includes providing information about what the abortion involves, its risks and benefits for the patient, the risks and benefits for them of carrying to term and giving birth, and instructions for after care.²⁶ The process of obtaining informed consent for an abortion entails screening not only for an inability to provide informed consent, but also for any coercion or abuse in the patient's life.²⁷

48. As with adults, the vast majority of young people seeking an abortion are able to provide informed consent because they are capable of sharing their medical histories; understanding what pregnancy, abortion, and childbirth involve; weighing the risks and benefits for them of having an abortion instead of remaining pregnant and giving birth; asking appropriate questions; and following instructions for after care.²⁸ Abortion providers' ethical, professional, and legal obligations prevent them from providing an abortion to the few young people—and adults—who cannot consent to one. Abortion providers' ethical obligations also direct them to encourage patients who are minors to consult a trusted adult about their decision if they have not done so already.²⁹

²⁶ *Id.*

²⁷ See ACOG. (2013). Reproductive & Sexual Coercion. Committee Opinion No. 554. *Obstetrics & Gynecology*, 121, 411-415. Retrieved from <https://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co554.pdf?dmc=1&ts=20190619T2242171002>.

²⁸ See American Academy of Pediatrics, *The Adolescent's Right to Confidential Care When Considering Abortion*, Pediatrics, Sept. 2022, at 3, <https://doi.org/10.1542/peds.2022-058780>.

²⁹ See, e.g., 2.2.3(a) Mandatory Parental Consent to Abortion, AMA Principles f, <https://code-medical-ethics.ama-assn.org/sites/default/files/2022->

49. Young people tend to discover they are pregnant and thus seek abortion care later in pregnancy than adults.³⁰ Although abortion is extremely safe throughout pregnancy, its complexity, duration, costs, and medical risks increase with gestational age. Further, each day that someone remains pregnant against their will can be agonizing, particularly if the pregnancy resulted from abuse. Delaying abortion care therefore seriously harms patients.

II. Missourians Face Daunting Challenges to Obtaining Abortion Care and Avoiding Compelled Pregnancy, Childbirth, and Parenthood

50. A Jackson County Circuit Court temporarily enjoined Missouri’s abortion bans because they violate Missourians’ Right to Reproductive Freedom. Order, *Comprehensive Health of Planned Parenthood Great Plains v. State* (“*Comprehensive Health*”), No. 2416-CV31931, at 9–12 (16th Cir. Ct. Jackson Cnty. Dec. 20, 2024).

51. But even now, in-state abortion providers are unable to meet Missouri residents’ demand for abortion care.

52. Consequently, many Missourians must continue to travel out of state to obtain a legal abortion.

08/2.2.3%20Mandatory%20parental%20consent%20to%20abortion%20--%20background%20reports.pdf.

³⁰ *One in three people learn they’re pregnant past six weeks’ gestation*, Advancing New Standards in Reproductive Health, (Nov. 10, 2021) <https://www.ansirh.org/research/research/one-three-people-learn-theyre-pregnant-past-six-weeks-gestation> (“Almost two in three young people (ages 15-19) discover pregnancy at six weeks or later.”); see Ralph, Lauren, Foster, D.G., Barar, Rana, Rocca, Corrine, *Home pregnancy test use and timing of pregnancy confirmation among people seeking health care*, at 10-16, *Contraception*, Mar. 2022.

53. Importantly, many Missourians will have to travel lengthy distances to obtain abortion care even if it becomes more available in the state. At this time, only three facilities in Missouri are providing abortion care, and none offer it beyond thirteen weeks of pregnancy.

54. Unsurprisingly, having to travel lengthy distances for unanticipated health care is generally more complicated, more expensive, more time-consuming, and more distressing than obtaining the care close to home—particularly for young people.

55. This is especially true of abortion care after June 24, 2022. On that date, the U.S. Supreme Court held that the federal constitution no longer protects a right to abortion. *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022). *Dobbs* enabled states lacking protections for reproductive freedom to ban abortion care in most circumstances. *Id.* at 232.

56. An abortion becomes more expensive as pregnancy progresses, which exacerbates the well-documented costs of transportation, lost wages, lodging, meals, and childcare associated with obtaining an abortion far from home. On average, a medication abortion, which is only available in the first trimester, costs \$568; a first-trimester aspiration abortion costs \$625; and a second-trimester procedural abortion costs between \$715 and \$2,000.³¹

³¹ Rosalyn Schroeder et al., *Trends in Abortion Care in the United States, 2017-2021*, ADV. NEW STAND. REPROD. HEALTH ANSIRH 14, <https://www.ansirh.org/sites/default/files/2022-06/Trends%20in%20Abortion%20Care%20in%20the%20United%20States%2C%202017-2021.pdf>; *How much does an abortion cost?* Planned Parenthood, <https://www.plannedparenthood.org/blog/how-much-does-an-abortion-cost>.

57. People seeking an abortion can become trapped in a cycle of struggling to gather resources to obtain care and delaying care until they think they can afford it, only to find that the abortion is even more expensive than it was before.

58. Missourians, including young people, are generally ill-equipped to meet the substantial and unexpected costs of obtaining an abortion. Missouri has the thirteenth-highest poverty rate (13.28%) and twelfth-highest child poverty rate (17.34%) in the country.³² The poverty rate in Pemliscot County is over 35%, and several other counties in the state have poverty rates above 20%.³³

59. Nationally, women with lower incomes are more likely to seek abortions than women with higher incomes. Specifically, women with incomes below 100% of the federal poverty level have an abortion rate of 52 per 1,000 women of reproductive age, compared with 9 abortions per 1,000 women of reproductive age with incomes higher than 200% of the federal poverty level.³⁴

60. Missouri's minimum wage, \$11.15 per hour, is several dollars below the hourly wage needed to support a basic standard of living in the state.³⁵ Missourians who

³² *Missouri Poverty Report 2022*, Comm. Action Net. (2022), <https://www.communityaction.org/wp-content/uploads/2022/09/2022-POVERTY-REPORT-web.pdf>.

³³ *Id.*

³⁴ Christine Dehlendorf et al., *Disparities in Abortion Rates: A Public Health Approach*, 103 Am. J. Pub. Health 1772, 1772 (2013). In 2024, the federal poverty level for an individual was \$15,060 in annual income. Office of the Asst. Sec. for Planning & Eval., *Poverty Guidelines*, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. The federal poverty level for a family of four was \$31,200. *Id.*

³⁵ *Id.*

work 40 hours per week at minimum wage earn \$446 per week before taxes—at least \$100 less than the cost of the least expensive type of abortion.³⁶ According to the Federal Reserve Board, 37% of adults in the United States do not have enough savings to cover a \$400 emergency expense.³⁷

61. Missourians also suffer food insecurity at higher rates than residents of other states.³⁸ In 2022, 11.5% of Missouri households suffered low or very low food security, meaning they were unable to afford an adequate diet during the past year, compared to 10.7% of all people in the country.³⁹

62. Yet Missourians cannot use federal or state Medicaid funds, or private insurance to pay for an abortion in nearly all circumstances.⁴⁰

63. At the same time, the stigma surrounding abortion deters many patients from trying to borrow money from family members or friends.⁴¹

³⁶ *Id.*

³⁷ *Economic Well-Being of U.S. Households in 2022*, (May 2023), Bd. of Gov.'s of the Fed. Reserve Sys., <https://www.federalreserve.gov/publications/files/2022-report-economic-well-being-us-households-202305.pdf>.

³⁸ *Missouri Poverty Report 2022*, Comm. Action Net. (2022), <https://www.communityaction.org/wp-content/uploads/2022/09/2022-POVERTY-REPORT-web.pdf>.

³⁹ *Id.*

⁴⁰ Mo. Rev. Stat. §§ 188.205; 188.207; 188.210; 376.805(1).

⁴¹ Madison S. Dickey, Elizabeth A. Mosley, Elizabeth A. Clark, Sarah Cordes, Eva Lathrop & Lisa B. Haddad, “*They’re Forcing People to Have Children that They Can’t Afford*”: *A Qualitative Study of Social Support and Capital Among Individuals Receiving an Abortion in Georgia*, 315 Soc. Sci. & Med. 115547 (2022), <https://www.sciencedirect.com/science/article/pii/S027795362200853X?via%3Dihub> (reporting the results of a qualitative study which found “[m]any women had reduced

64. A November 8, 2024, study published in the Journal of the American Medical Association (“JAMA”) found that 42% of abortion patients suffered “catastrophic health expenditures” even before *Dobbs*.⁴² Health expenditures, including the cost of the abortion itself and associated expenses, were considered catastrophic if they were 40% or more of what a patient could afford.⁴³ Patients who traveled out of state for abortion care were twice as likely to sustain catastrophic health expenditures (65%) as patients who sought an abortion in their home state (32%).⁴⁴ “Studies have . . . documented that, to pay for abortion care, [patients] had to take out loans, sell personal belongings, and forego essential household expenditures such as food, bills, and rent.”⁴⁵ The JAMA study “suggests a need for expanded insurance coverage for abortion care, regardless of state of residence.”⁴⁶

65. Young people in Missouri who cannot rely on their parents’ help to obtain an abortion face added barriers to doing so, even close to home. Most lack a driver’s license, and common carriers typically bar them from buying rides or tickets on their own.⁴⁷

social support because they were unable to tell individuals in their network, or their entire network, about their abortion due to concerns of stigmatization”).

⁴² Ortal Wasser, et al., *Catastrophic Health Expenditures for In-State and Out-of-State Abortion Care*, JAMA Network Open (Nov. 8, 2024), https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2826000#google_vignette.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Greyhound prohibits anyone under the age of 16 from purchasing tickets and from traveling without a parent, guardian, or passenger over the age of 16. Greyhound Lines,

Likewise, Airbnb and many hotels will not sell accommodations to a young person without an adult's involvement.⁴⁸

66. For some, the distance-related barriers to abortion care are insurmountable. A 2023 study published in the *Journal of Policy Analysis and Management* found that an increase from zero to 100 miles in the travel distance required to obtain an abortion reduced abortion rates by 19.4% and increased birth rates by 2.2%. Another 100 miles reduced abortion rates by an additional 12.8% and increased birth rates by an additional 1.6%.

Inc., *Children Traveling*, GREYHOUND, <https://www.greyhound.com/children-traveling> (last visited Apr. 18, 2025). Amtrak bars young people from purchasing tickets online, and instead requires them to call its phone-booking service to ensure they abide by its Unaccompanied Minors Policy. Amtrak, *Unaccompanied Minors Policy*, AMTRAK, <https://www.amtrak.com/unaccompanied-minors-policy#:~:text=Children%20age%2012%20and%20under,the%20Amtrak%20Unaccomp%20Minor%20Policy> (last visited June 20, 2024). Megabus bars anyone under age 17 from riding its buses unaccompanied by an adult. Megabus, *Can minors ride Megabus unattended?*, <https://us.megabus.com/help> (last visited Apr. 18, 2025).

⁴⁸ Airbnb prohibits people under the age of 18 to create an Airbnb account, host a listing, or make a reservation. Airbnb, Inc., *Who can have an Airbnb account*, <https://www.airbnb.com/help/article/3047#:~:text=Underage%20users%3A%20People%20under%20the,be%20accompanied%20by%20an%20adult>. To stay at an Airbnb, travelers under the age of 18 must be accompanied by an adult. *Id.* Marriot has a minimum age of 18 to book a stay at their hotels, and Best Western, Wyndham, Radisson, and Hyatt all have a minimum booking age of 21. Andrea Bennett, *How old do you have to be to book a hotel room? The guide you need*, KAYAK (Nov. 3, 2023), [https://www.kayak.com/news/how_old_to_book_a_hotel_room/#:~:text=Best%20Western%2C%20Wyndham%2C%20Radisson%2C,front%20desk\)%20before%20you%20book](https://www.kayak.com/news/how_old_to_book_a_hotel_room/#:~:text=Best%20Western%2C%20Wyndham%2C%20Radisson%2C,front%20desk)%20before%20you%20book).

67. Being forced to remain pregnant against one's will jeopardizes a person's physical, mental, and emotional health, as well as the stability and well-being of their family, including their children.⁴⁹

68. These effects are most severe for those who are marginalized. For Missourians experiencing intimate partner violence, for example, forced pregnancy aggravates the risk of new or increased violence, and further—often permanently—tethers the victim and the victim's family to their abuser.⁵⁰

III. The Challenged Abortion Restrictions Deny, Delay, Penalize, and Otherwise Restrict Missourians' Ability to Have an Abortion By Discriminating Against Abortion Seekers and Their Supporters

A. Missouri's Parental Consent and Notice Requirement Denies Abortion Care to Young People Who Cannot Involve a Parent in or Secure Judicial Approval of Their Decision By Discriminating Against Abortion Seekers and Their Supporters

69. In nearly all circumstances, Missouri prohibits a physician from providing an abortion to a young person unless: 1) the physician obtains the written consent of the young person's parent or guardian and 2) ensures that the consenting parent or guardian has notified "any other custodial parent in writing" ("Parental Consent and Notice Requirement"). § 188.028, RSMo.

⁴⁹ ANSIRH, *The Harms of Denying a Woman a Wanted Abortion: Findings from the Turnaway Study*, UNIVERSITY OF CALIFORNIA SAN FRANCISCO, https://www.ansirh.org/sites/default/files/publications/files/the_harms_of_denying_a_woman_a_wanted_abortion_4-16-2020.pdf (last visited Apr. 18, 2025).

⁵⁰ E.g., *id.*

70. The only instances in which the Parental Consent and Notice Requirement relieves the abortion provider of having to ensure parental notice are when the young person's custodial parent: 1) has been found guilty of certain crimes, 2) appears on Missouri's sexual offender registry, 3) is the object of an order of protection, 4) has unknown whereabouts after a "reasonable inquiry," 5) is a "fugitive from justice," 6) is in a "habitually . . . intoxicated or drugged condition," or 7) has been declared "mentally incompetent or incapacitated" by a court. § 188.028(1)(1), RSMo.

71. An abortion provider who violates the Parental Consent and Notice Requirement is guilty of a class A misdemeanor, which imposes up to one year of imprisonment and/or a fine up to \$2,000. §§ 188.075(1), 558.011(1)(6), 558.002(1)(2), RSMo. The abortion provider is also subject to prosecution for injunctive relief by the Attorney General, County Prosecuting Attorneys, and the St. Louis Circuit Attorney. § 188.075(3), RSMo.

72. Further, someone can be held liable under the Criminal Responsibility for Another Statute if 1) "before or during the commission of" a violation of the Parental Consent and Notice Requirement, and 2) "with the purpose of promoting the commission of" the violation, they 3) "aid[] or agree[] to aid or attempt[] to aid" a physician 4) "in planning, committing or attempting to commit the" violation. § 562.041(1)(2), RSMo. In these circumstances, the penalties under the Criminal Responsibility for Another Statute are the same as the penalties for violating the Parental Consent and Notice Requirement itself. Thus, the Parental Consent and Notice Requirement subjects Plaintiff Right By You to up to one year of imprisonment, a fine up to \$2,000, and/or injunctive relief if they were

to help young people obtain abortions in Missouri without parental involvement or judicial approval.

73. A young person who cannot satisfy the Parental Consent and Notice Requirement cannot obtain an abortion in Missouri unless they or their next friend⁵¹ secure an order from a juvenile court: 1) granting them the right to consent to their abortion, or 2) consenting to the young person's abortion itself ("Judicial Bypass Requirement"). §§ 188.028(2)(1)–(3), RSMo.

74. No juvenile courts are currently accepting petitions to bypass the parental consent and notice requirement, and it is unclear when they will.

75. Under the Parental Consent and Notice Requirement, judicial bypass petitions must set forth:

- a) the initials of the minor;
- b) the age of the minor;
- c) "the names and addresses of each parent, guardian, or, if the minor's parents are deceased and no guardian has been appointed, any other person standing in loco parentis of the minor";
- d) "that the minor has been fully informed of the risks and consequences of the abortion";
- e) "that the minor is of sound mind and has sufficient intellectual capacity to consent to the abortion";

⁵¹ Missouri law bars the next friend from being a minor or "any entity or person in an individual or representative capacity that has a financial interest or potential gain from the proposed abortion, or any employee of or volunteer for such entity or person." § 188.031, RSMo.

- f) that, if the court does not grant the minor the right to consent to their abortion, “the court should find that the abortion is in the best interest of the minor and give judicial consent to the abortion”; and
- g) that the court should appoint a guardian ad litem for the minor, “and if the minor does not have private counsel, that the court should appoint counsel.”

§ 188.028(2)(1), RSMo.

76. The Judicial Bypass Requirement does not specify who is qualified to “fully inform[] [the minor] of the risks and consequences of the abortion.” *Id.* Likewise, it obligates the juvenile court to “assist the minor or next friend in preparing the petition and notices required pursuant to [the Judicial Bypass Requirement],” but does not specify the nature of the assistance. *Id.*

77. Additionally, the juvenile court shall hold a hearing on the merits of the petition “as soon as possible within five days of the filing of the petition.” § 188.028(2)(2), RSMo. “At the hearing, the court shall hear evidence relating to”:

- a) “the emotional development, maturity, intellect and understanding of the minor”;
- b) “the nature, possible consequences, and alternatives to the abortion”; and
- c) “any other evidence that the court may find useful in determining whether the minor should be granted” the right to consent to their abortion or whether the abortion is in the minor’s best interests.

Id.

78. The Judicial Bypass Requirement does not require the juvenile court to offer the young person any information or resources related to continuing a pregnancy or having an abortion.

79. A young person may appeal a denial of their judicial bypass petition only if they file a notice of intent to appeal within twenty-four hours of the denial being issued. § 188.028(2)(5), RSMo. “The record on appeal shall be completed and the appeal shall be perfected within five days from the filing of [the] notice to appeal.” *Id.* “*Because time may be of the essence regarding the performance or induction of the abortion*, the supreme court of this state shall, by court rule, provide for expedited appellate review of [such] cases.” *Id.* (emphasis added); *see* Mo. Supreme Court Rule 84.02.⁵²

80. Notably, Missouri recognizes that young people seeking “any surgical, medical, or other treatment or procedures, including immunizations,” related to 1) “[p]regnancy, but excluding abortions,” 2) “[v]enereal disease,” or 3) “[d]rug or substance abuse,” can consent to their own medical care. §§ 431.061(1), (1)(4). It therefore does not require parental consent or notice for such care. By extension, Missouri does not require

⁵² In 1983, the U.S. Supreme Court held that a version of the Parental Consent and Notice Requirement—that in fact lacked a notice requirement—did not violate the federal constitution because a version of the Judicial Bypass Requirement allowed a young person to “demonstrate that she is sufficiently mature to make the abortion decision herself or that, despite her immaturity, an abortion would be in her best interests.” *Planned Parenthood Ass’n of Kansas City v. Ashcroft*, 462 U.S. 476, 491 (1983) (citation omitted), *abrogated by Dobbs*, 597 U.S. 215. Notably, the federal right to abortion in 1983 was considerably weaker than Missouri’s Right to Reproductive Freedom is now. Among other differences, the federal right did not make abortion restrictions presumptively invalid, much less cabin states’ compelling interests to the promotion of patients’ autonomy and health and widely accepted standards of medicine. *See, e.g., id.* at 487 (upholding a different challenged abortion restriction because it was “reasonably related to generally accepted medical standards”); *id.* at 490–91 (“A State’s interest in protecting immature minors will sustain a requirement of a consent substitute, either parental or judicial.”).

any of these young people to make the case to a judge that they are capable of deciding to seek these treatments or that the treatments are in the young people's best interest.

81. In these circumstances, a physician is afforded discretion to advise the young person's parent of the care without the young person's consent, but, unlike the Parental Consent and Notice Requirement, Missouri law does not require the young person and her physician to secure parental consent or notice before the young person can receive care. § 431.062(3), RSMo. And if the young person is found not to be pregnant, have a venereal disease, or be experiencing drug or substance abuse, "then no information with respect to any appointment, examination, test or other medical procedure shall be given to the" minor's parent or guardian. *Id.*

82. Additionally, Missouri allows young people who are parents to consent to any medical care for themselves or their child. § 431.061(1)(3), RSMo.

83. Thus, Missouri expressly burdens young people who choose to end a pregnancy and those who seek to help them in ways that it does not burden young people who choose to continue a pregnancy or those who seek to help them.

B. Missouri's Parental Consent and Notice Requirement Denies, Delays, Penalizes, and Otherwise Restricts Young People's Ability to Have an Abortion

84. Missouri's Parental Consent and Notice Requirement prevents some young people from even seeking an abortion. It forces other young people to travel out of state for abortion care. It delays young people's abortion care, with the attendant loss of abortion options, added medical risks, added expenses, and distress. Missouri's Parental Consent and Notice Requirement coerces some young people to divulge intimate information to

strangers for seeking an abortion. And it undermines a young person's relationship with their abortion provider.

85. "Research suggests that the process of medical decision making for adolescents often does not differ from that of adults."⁵³ Studies further show that most young people not only fully research and carefully consider their options before making a decision about their pregnancy,⁵⁴ but also confide in a parent about their options regardless of parental involvement requirements.⁵⁵ The younger a person is, the more likely they are to involve a parent in their pregnancy decision.⁵⁶

⁵³ AMA Principles, 2.2.3 Mandatory Parental Consent to Abortion, Background Report, <https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/2.2.3%20Mandatory%20parental%20consent%20to%20abortion%20--%20background%20reports.pdf> ("Among the women who considered abortion, the researchers found no age-related differences for the three measures of cognitive competence studied (thoroughness of consideration of consequences, number of reasons considered, and content of the reasoning about pregnancy)").

⁵⁴ Ehrlich JS, *Choosing abortion: Teens who make the decision without parental involvement*, 21 Gender Issues 3–39 (2003), <https://doi.org/10.1007/s12147-003-0014-z>.

⁵⁵ Ralph L et al., *The Role of Parents and Partners in Minors' Decisions to Have an Abortion and Anticipated Coping after Abortion*, 54 J. Adolesc Health, 2014, 428–434 (2014), [https://www.jahonline.org/article/S1054-139X\(13\)00520-X/pdf](https://www.jahonline.org/article/S1054-139X(13)00520-X/pdf); Hasselbacher LA et al., *Factors Influencing Parental Involvement Among Minors Seeking an Abortion: A Qualitative Study*, 104 (11) Am. J. Pub. Health 2207–2211 (2014), <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2014.302116>.

⁵⁶ Stanley K. Henshaw and Kathryn Kost, *Parental involvement in minors' abortion decisions*, 24(5) Fam. Plan. Persp. 196, 200 (1992), <https://pubmed.ncbi.nlm.nih.gov/1426181/>.

86. The small proportion of young people who do not confide in a parent typically have unavailable, incapacitated, abusive, or unsupportive parents.⁵⁷ This includes parents who are incarcerated, hospitalized, in another country, overwhelmed with their own hardships, or whose whereabouts are unknown.

87. It also includes parents who are likely to physically harm or emotionally alienate the young person, kick them out of their home, or coerce them into carrying to term upon learning that the young person intends to obtain an abortion.⁵⁸ In a recent large-scale study of why young people chose not to inform their parents of their pregnancy, 41% feared being thrown out or cut off from the family, 27% feared damage to family relationships, and 13% feared physical or emotional abuse.⁵⁹ Studies show that young

⁵⁷ See Kate Coleman-Minahan et al., *Adolescents Obtaining Abortion Without Parental Consent: Their Reasons and Experiences of Social Support*, 52(1) Persp. on Sexual and Reprod. Health 15–22, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7155056/pdf/PSRH-52-15.pdf>; Lauren J. Ralph et al., *Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois*, 68 J. of Adolesc. Health, 71–78 (2020), <https://doi.org/10.1016/j.jadohealth.2020.08.025>.

⁵⁸ Hasselbacher LA et al., *Factors influencing parental involvement among minors seeking an abortion: a qualitative study*, Nov. 2014, at 2207; Coleman-Minahan K et al., *Young women's experiences obtaining judicial bypass for abortion in Texas*, 64(1) J. Adolesc Health, 20–25 (2019), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7274206/pdf/nihms-1588813.pdf>.

⁵⁹ Lauren J. Ralph et al., *Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois*, 68 J. Adolesc. Health, 71, 74 (2020), <https://doi.org/10.1016/j.jadohealth.2020.08.025>.

people correctly predict these responses based on their experience with their parents and their parents' responses to siblings and other family members.⁶⁰

88. Additionally, some young people cannot confide in a parent about a pregnancy because they are in foster care or state custody. Missouri's Parental Consent and Notice Requirement does not specify how (or if) such young people can satisfy the requirement.

89. Studies show that the minority of young people who do not confide in a parent about a pregnancy do confide in a trusted adult, such as another relative, teacher, or faith leader who can offer guidance that accounts for the young person's unique circumstances, needs, and goals.⁶¹ By restricting consent and notice to a young person's "parent," Missouri's Parental Consent and Notice Requirement "discount[s] the complexity of family structures in the United States" and disproportionately harms "minors from various racial, ethnic, and socioeconomic background[s] . . . more like[ly] to live in family structures that may not include, or include more than, both biological parents."⁶²

90. Importantly, legally requiring a young person to involve a parent in their decision to end a pregnancy does not erase or improve strained family dynamics. In fact, it

⁶⁰ See Kate Coleman-Minahan, *Adolescents Obtaining Abortion Without Parental Consent: Their Reasons and Experiences of Social Support*, Persp. on Sexual and Reprod. Health, March 2020, at 21.

⁶¹ See American Academy of Pediatrics, *The Adolescent's Right to Confidential Care When Considering Abortion*, Pediatrics, Sep. 2022, at 3; Lauren J. Ralph et al., *Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois*, J. of Adolescent Health, Jan. 2020 at 74.

⁶² See American Academy of Pediatrics, *The Adolescent's Right to Confidential Care When Considering Abortion*, Pediatrics, Sept. 2022, at 4.

threatens to exacerbate them.⁶³ *Planned Parenthood of Cent. N.J. v. Farmer*, 762 A.2d 620, 640 (N.J. 2000) (“A recurring theme in the record is that a law mandating parental notification prior to an abortion can neither mend nor create lines of communication between parent and child.”); *Am. Acad. of Pediatrics v. Lungren*, 940 P.2d 797, 835 (Cal. 1997) (Kennard, J., concurring) (“If a trusting and supportive relationship between a parent and child has not already been established, it is unlikely that the State can create in a moment of crisis what the parents were unable to develop over the course of the preceding years.”) (citation omitted). As the American Medical Association has recognized, parental notification “often precipitates a family crisis, characterized by severe parental anger and rejection of the minor.” *Farmer*, 762 A.2d at 640 (citation omitted).

91. Missouri’s Parental Consent and Notice Requirement is particularly likely to exacerbate strained family dynamics because it forces a young person to notify an abusive or unsupportive parent of an abortion even if they are able to confide in a supportive parent.

92. The Parental Consent and Notice Requirement leaves young people who are unable or reasonably unwilling to obtain one parent’s consent for an abortion and notify another parent of the abortion no option but to seek a judicial bypass.

93. No juvenile courts are currently accepting petitions to bypass the parental consent and notice requirement, and there is no way to obtain a judicial bypass of the requirement right now.

⁶³ *See id.* at 3.

94. When the judicial bypass process resumes in Missouri, it will deny, delay, penalize, and otherwise restrict young people's ability to have an abortion just as it did before the enforcement of Missouri's total abortion ban.

95. Some young people will find the process so daunting—in particular, obtaining an attorney, preparing a detailed petition, and testifying at a hearing—that they will not even try to undertake it. Missouri's Parental Consent and Notice Requirement will therefore force some young people to remain pregnant, give birth, and become a parent. Young people who want to remain pregnant will not face such state coercion regarding their choice.

96. The same factors that make many young people feel that it is too burdensome, if not impossible, to obtain a judicial bypass also hinder young people from challenging the Parental Consent and Notice Requirement in court themselves.

97. And some young people in Missouri may receive flawed information from juvenile courts that abortion is illegal in the state or that the court must notify the young person's parent of their judicial bypass petition. *See, e.g., Doe by next friend Rothert v. Chapman*, 30 F.4th 766, 769 (8th Cir. 2022) (holding that clerk violated clearly established law by erroneously informing abortion seeker that the court would have to notify her parent if she sought a judicial bypass), *vacated as moot after Dobbs by Doe by Rothert v. Chapman*, No: 21-1692, 2023 WL 3144941 (Apr. 27, 2023).

98. Accordingly, some young people in Missouri will assume the added burdens and risks of seeking an abortion in a state without a parental involvement requirement, *see*

supra ¶ 54, making the recent invalidation of Missouri’s abortion bans useless to them, *see supra* ¶ 50.

99. The judicial bypass process will delay young people’s abortion care, with the attendant loss of abortion options, added medical risks, added expenses, and distress. *Supra* ¶ 49. By effectively requiring young people to obtain an attorney, file a petition, participate in a judicial hearing, and potentially appeal a denial, *supra* ¶¶ 75, 77, 79, the process could add weeks to existing delays caused by later discovery of pregnancy, *supra* ¶ 49.

100. Two separate large-scale studies in Massachusetts and Illinois showed that the judicial bypass process delayed abortion care by nearly a week in addition to time spent understanding the bypass system and finding an attorney.⁶⁴ In Massachusetts, one-fifth of the young people undergoing the bypass process there suffered delays of twenty-one days or more.⁶⁵

101. Likewise, young people traveling from other states to Illinois were more likely to obtain a second-trimester abortion than a first-trimester abortion after Illinois’

⁶⁴ Elizabeth Janiak et al., *Massachusetts’ Parental Consent Law and Procedural Timing Among Adolescents Undergoing Abortion*, May 2019, at 982; Lauren J. Ralph et al., *Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois*, Aug. 2020, at 75.

⁶⁵ Elizabeth Janiak et al., *Massachusetts’ Parental Consent Law and Procedural Timing Among Adolescents Undergoing Abortion*, *Obstetrics & Gynecology*, May 2019, at 982.

now-repealed⁶⁶ parental notice requirement took effect.⁶⁷ Young people undergoing the bypass process in Massachusetts were nearly twice as likely to miss the gestational age cut-off for medication abortion as young people able to obtain parental consent.⁶⁸

102. Further, young people close to turning eighteen sometimes push their abortion appointments until then to avoid injuries from the judicial bypass process other than delay.⁶⁹ In Texas, for instance, the rate of second-trimester abortions for young people who were just under eighteen when they learned they were pregnant rose by 21% in the four years after a parental notice requirement took effect there.⁷⁰ But no similar increase occurred among younger people.⁷¹

⁶⁶ In signing a law that repealed the requirement in June 2022, the Governor of Illinois noted: “With reproductive rights under attack across the nation, Illinois is once again establishing itself as a leader in ensuring access to health care services. This repeal was essential; because it was the most vulnerable pregnant minors who were punished by this law; victims of rape and physical abuse in unsafe homes.” *New law ends parental notification in Illinois*, Capitol News Illinois (Dec. 18, 2021), <https://capitolnewsillinois.com/RSSFullText/new-law-ends-parental-notification-in-illinois>.

⁶⁷ Ralph, L.J., et al., *The Impact of a Parental Notification Requirement on Illinois Minors’ Access to and Decision-Making Around Abortion*, 62(3) J. Adolesc. Health, 281–287 (2018), <https://www.jahonline.org/action/showPdf?pii=S1054-139X%2817%2930502-5>.

⁶⁸ Elizabeth Janiak et al., *Massachusetts’ Parental Consent Law and Procedural Timing Among Adolescents Undergoing Abortion*, *Obstetrics & Gynecology*, May 2019, at 982.

⁶⁹ Silvie Colman & Ted Joyce, *Minors’ Behavioral Responses to Parental Involvement Laws: Delaying Abortion Until Age 18*, 41 Persp. on Sexual Reprod. Health 119–126 (2009), https://www.guttmacher.org/sites/default/files/article_files/4111909.pdf.

⁷⁰ Theodore Joyce et al, *Changes in Abortions and Births and the Texas Parental Notification Law*, 354(10) New Eng. J. Med 1031-1038, <https://www.nejm.org/doi/pdf/10.1056/NEJMsa054047>.

⁷¹ *Id.*

103. Missouri’s judicial bypass process will also exacerbate the stress and anxiety of having to secure funding, transportation, and other resources necessary to obtain an abortion. *See supra* ¶¶ 56, 65. Young people seeking a judicial bypass must navigate an unfamiliar process and contend with the uncertainty of whether they will ultimately be able to obtain an abortion.

104. Moreover, the process will coerce young people seeking an abortion to divulge intimate information to a series of strangers, including the attorney needed to navigate the process, the judge responsible for deciding the young person’s petition, and any court personnel processing the petition. That includes testifying in court and being subject to judicial scrutiny about deeply personal matters, such as the young person’s sexual and reproductive history, gender identity and sexual orientation, family dynamics, socioeconomic background, and academic standing. Recent scholarship on judicial bypass proceedings indicates that such invasions of privacy—and testifying in court in particular—breed humiliation, shame, stigma, and trauma among young people seeking an abortion that can further isolate and psychologically distress them.⁷²

105. Young people who lack the option of appearing before a Missouri judge remotely will face: 1) added delays to their abortion care; 2) a heightened risk that a parent will learn they are seeking an abortion due to prolonged absences from home, school, or work, and the possibility of running into someone they know at the courthouse; and 3) the

⁷² Coleman-Minahan, K. et al., *Young Women’s Experiences Obtaining Judicial Bypass for Abortion in Texas*, 2019, at 20-25.

ensuing dangers of their family abusing them or coercing them to carry their pregnancy to term. *See supra* ¶ 87.

106. In imposing administrative and logistical burdens on abortion providers, *supra* ¶ 69, Missouri’s Parental Consent and Notice Requirement further penalizes abortion patients by diverting time from their care and ultimately limiting the number of abortion patients that physicians can see.

107. Missouri’s Parental Consent and Notice Requirement undermines the doctor-patient relationship for all young people in Missouri who choose to seek an abortion rather than continue a pregnancy. It requires doctors to disclose otherwise protected medical information to parents or strangers, sometimes against their patients’ wishes.⁷³ As the American Medical Association has “long recognized,” “[l]ike adults, minors have a profound need for privacy in matters of their health care.”⁷⁴ Indeed, “[p]rivacy may be especially important for minors. Adolescence is a critical period for minors to develop their independent sense of self; the ability to maintain spheres of privacy from parents in areas of personal intimacy is an essential part of that development.”⁷⁵ Compromising a patient’s privacy and thereby damaging the doctor-patient relationship can stymie doctors and patients from exchanging critical information and doctors from delivering appropriate medical instructions—particularly when the patient is a young person.

⁷³ Notably, HIPAA protects minors from parental notification when notification may endanger them and expressly preempts contrary state laws. 45 C.F.R. § 164.502(g)(5).

⁷⁴ AMA Principles, 2.2.3 Mandatory Parental Consent to Abortion, Background Report, at 2.

⁷⁵ *Id.*

C. Missouri Cannot Demonstrate that the Parental Consent and Notice Requirement Promotes Young People's Autonomy and Health and Widely Accepted Standards of Medicine

108. Research shows that laws requiring parental consent or notice for abortion do not improve communication within families or make it more likely that a young person will confide in their parents about their pregnancy. Rather, most young people choose to confide in at least one parent independently of the law.

109. And those who choose not to are not swayed by legal requirements. The young people who do not confide in a parent about a pregnancy are either unable or reasonably unwilling to do so. *Supra* ¶¶ 86–88.

110. In Missouri, they may resort to seeking a judicial bypass of the parental consent and notice requirement, a process that also fails to promote young people's autonomy and health and widely accepted standards of medicine.⁷⁶

111. According to the American Medical Association, “[t]he key to successful counseling of the minor is the minor’s ability to seek guidance from individuals with whom she feels most comfortable discussing her pregnancy and her reproductive options.”⁷⁷ But young people hardly ever feel comfortable discussing the most intimate aspects of their lives with a judge.

⁷⁶ See Lauren MacAfee, et al., *Association between the New Hampshire parental notification law and minors undergoing abortions in northern New England*. 125(1) *Obstetrics & Gynecology*, 170–174 (2015), https://journals.lww.com/greenjournal/abstract/2015/01000/association_between_the_new_hampshire_parental.28.aspx.

⁷⁷ AMA Principles, 2.2.3 Mandatory Parental Consent to Abortion, Background Report, at 4.

112. Moreover, judges are less equipped than physicians who provide abortions to ensure that any particular young person is making a careful and informed decision about their pregnancy. *See supra* ¶ 47.

113. Every major medical organization whose members provide adolescent or reproductive healthcare opposes parental involvement requirements such as Missouri's Parental Consent and Notice Requirement because they belie widely accepted clinical standards of practice.⁷⁸

114. The American College of Obstetricians and Gynecologists has concluded that “parental involvement laws create additional barriers to accessing abortion care. Minors have the ability to go through a judicial bypass process, but it is onerous and delays needed care.”⁷⁹

115. The American Medical Association notes that “[t]he expert opinion to date, and the available scientific evidence, support the view that physicians should not require minors to involve their parents before deciding whether to undergo an abortion.”⁸⁰

116. The American Public Health Association (“APHA”) “[u]rges that federal, state, and local policymakers and courts cease to mandate parental involvement in minors’

⁷⁸ *Ensuring Minors’ Access to Confidential Abortion Services*, APHA (Nov. 1, 2011), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/03/11/14/ensuring-minors-access-to-confidential-abortion-services>.

⁷⁹ Committee Statement No. 16 (Feb. 2025), <https://www.acog.org/clinical/clinical-guidance/committee-statement/articles/2025/02/increasing-access-to-abortion>.

⁸⁰ AMA Principles, 2.2.3 Mandatory Parental Consent to Abortion, Background Report, at 3.

abortion decision making.”⁸¹ The APHA cites evidence that “parental involvement laws do not promote family communication as intended,” but “may displace abortions to other states, delay abortions, or discourage adolescents from seeking professional reproductive health care or advice.”⁸² The APHA also cites evidence that “the judicial bypass option” “results in unnecessary negative emotional consequences for adolescent women.”⁸³

117. The American Academy of Pediatrics “affirms that it is an adolescent’s right to decide the outcome of their pregnancy and the people who should be involved. Pediatric health clinicians should encourage adolescents to engage their parents/caregivers or a trusted adult in their decision-making around pregnancy and abortion; however, if adolescents choose not to do so, their decision should be respected.”⁸⁴

118. Many state supreme courts have held parental involvement requirements for abortion care unconstitutional because they discriminate against young people who choose to have an abortion, disregard their autonomy, and imperil their health according to

⁸¹ Ensuring Minors’ Access to Confidential Abortion Services, American Public Health Association, Policy No 20115 (Nov. 1, 2011), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/03/11/14/ensuring-minors-access-to-confidential-abortion-services>.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ The Importance of Access to Abortion, American Academy of Pediatrics, <https://www.aap.org/en/patient-care/adolescent-sexual-health/equitable-access-to-sexual-and-reproductive-health-care-for-all-youth/the-importance-of-access-to-abortion/#:~:text=Pediatric%20health%20clinicians%20should%20encourage,their%20decision%20should%20be%20respected.&text=Abortion%20is%20a%20medical%20procedure%20that%20is%20used%20to%20end%20a%20pregnancy> (last visited Apr. 18, 2025).

evidence-based medicine. *See, e.g., Planned Parenthood of Mont. v. State*, 554 P.3d 153, 172 (Mont. 2024), *cert. petition docketed*, No. 24-745 (U.S. Jan. 14, 2025) (holding that Montana’s parental consent law violates the rights to equal protection and privacy under Montana’s Constitution and noting that “[t]he necessary process to obtain a judicial waiver forces delay in care which can increase stress and cost—especially if delay takes a more affordable option, such as medication assisted abortion, off the table”); *Planned Parenthood of the Great Nw. v. State*, 375 P.3d 1122, 1128, 1143 (Alaska 2016) (invalidating a voter-enacted parental notice requirement because “the State’s asserted interests” in “aiding parents to help their minor children make informed and mature pregnancy-related decisions” “do not justify a distinction between pregnant minors seeking to terminate and those seeking to carry to term”); *Farmer*, 762 A.2d at 640 (“The reality is that the Act applies to many young women who are justified in not notifying a parent about their abortion decisions.”); *Lungren*, 940 P.2d at 832 (Kennard, J., concurring) (“[E]vidence received at the trial of this case, much of it based on the experience of other states with similar laws, shows that the benevolent appearance of parental involvement laws is deceiving; the laws have serious adverse effects and yield few benefits for children or society.”); *Planned Parenthood League of Mass., Inc. v. Att’y Gen.*, 677 N.E.2d 101, 107 (Mass. 1997) (invalidating a parental consent requirement because it “lacks sufficient justification to overcome the burden [it] places on the minor’s constitutional right to choose”); *see also Doe v. Minnesota*, No. 62-CV-19-3868 (2d Jud. Dist. July 11, 2022) (invalidating a parental notice requirement because it frustrates rather than serves

Minnesota’s interests in ensuring young people fully consider their decision and receive parental support).

D. Missouri’s Ban on Abortion Support Prohibits Providing Financial or Practical Support to Young People Who Cannot Involve a Parent in or Secure Judicial Approval of their Abortion Decision By Discriminating Against Abortion Seekers and Their Supporters

119. Missouri prohibits anyone from “intentionally caus[ing], aid[ing], or assist[ing] a minor to obtain an abortion without the consent or consents required by [the Parental Consent and Notice Requirement]” (“Ban on Abortion Support”). § 188.250(1), RSMo.

120. Violators “shall be civilly liable to the minor and to the person or persons required to give the consent or consents under [the Parental Consent and Notice Requirement]. A court may award damages to the person or persons adversely affected by a violation of [the Ban on Abortion Support], including compensation for emotional injury without the need for personal presence at the act or event, and the court may further award attorneys’ fees, litigation costs, and punitive damages.”⁸⁵ § 188.250(2), RSMo; *see also* § 188.028, RSMo.

121. “A court may enjoin conduct that would be in violation of [the Ban on Abortion Support] upon petition by the attorney general, a prosecuting or circuit attorney, or any person adversely affected or who reasonably may be adversely affected by such

⁸⁵ “Any adult who engages in or consents to another person engaging in a sex act with a minor in violation of [Missouri law] which results in the minor’s pregnancy shall not be awarded damages under this section.” § 188.250(2), RSMo.

conduct, upon a showing that such conduct: (1) Is reasonably anticipated to occur in the future; or (2) Has occurred in the past, whether with the same minor or others, and that it is not unreasonable to expect that such conduct will be repeated.” § 188.250(5), RSMo.

122. “It shall not be a defense . . . that the abortion was performed or induced pursuant to consent to the abortion . . . that is otherwise lawful in the state or place where the abortion was performed or induced.” § 188.250(3), RSMo. That is, Missouri’s Ban on Abortion Support applies even to abortions provided outside of Missouri.

123. Missouri does not restrict the support that can be provided to young people seeking other healthcare.

124. In 2005, Planned Parenthood challenged the Ban on Abortion Support in state court. Planned Parenthood argued that the ban violated:

- 1) Planned Parenthood’s free speech rights under the federal and Missouri constitutions because the ban prevented Planned Parenthood from providing information and counseling to young people about abortions within or outside Missouri;
- 2) the federal Commerce Clause and due process rights of out-of-state Planned Parenthood employees because the ban prevented them from providing information and counseling to young people about abortions outside Missouri;
- 3) young people’s federal abortion right because the ban compelled them to travel outside Missouri for an abortion to avoid Missouri’s Parental Consent and Notice Requirement; and
- 4) young people’s federal travel right because the ban prevented adults from accompanying them out of state.

Planned Parenthood of Kan. v. Nixon, 220 S.W.3d 732, 737–45 (Mo. 2007) (per curiam).

125. The Missouri Supreme Court narrowly construed “aid” and “assist” in the Ban on Abortion Support to exclude information and counseling. *Id.* at 742. This salvaged the ban’s constitutionality under the free speech protections of the federal and Missouri constitutions. *Id.* Because Planned Parenthood’s free speech claim was limited to information and counseling, the Missouri Supreme Court did not address whether the Ban on Abortion Support applies to financial or practical support intended and understood to express a particular message. *See id.* (“This Court gives the phrase ‘aid or assist’ . . . a narrowed construction so as not to include speech or expressive conduct.”); *Texas v. Johnson*, 491 U.S. 397, 404 (1989) (“In deciding whether particular conduct possesses sufficient communicative elements to bring the First Amendment into play, we have asked whether ‘an intent to convey a particularized message was present, and whether the likelihood was great that the message would be understood by those who viewed it.’”) (citations omitted).

126. The Missouri Supreme Court also narrowly construed the Ban on Abortion Support’s prohibition against using as a defense the fact that an abortion happened pursuant to an informed consent process that was legal where the abortion occurred. The Court held that the Ban on Abortion Support does not apply to aiding or assisting that happens “wholly out-of-state,” meaning both the young person and supporter are outside Missouri when the support is provided. *Nixon*, 220 S.W.3d at 742–43 (“Missouri simply does not have the authority to make lawful out-of-state conduct actionable here, for its laws do not have extraterritorial effect.”); *id.* at 745. This narrow construction salvaged the constitutionality

of the Ban on Abortion Support under the federal Commerce and Due Process Clauses. *Id.* at 742.

127. The Missouri Supreme Court held that the Ban on Abortion Support did not violate young people’s federal abortion right in part because the U.S. Supreme Court had already held that a version of Missouri’s Parental Consent and Notice Requirement did not violate that right. *Id.* at 743–44; *supra* at 23 n.52. The Missouri Supreme Court also cited federal Eighth Circuit precedent at the time which held that “the distance a minor has to travel to obtain an abortion”—in *Nixon*, leaving the state to avoid Missouri’s Parental Consent and Notice Requirement— did not violate the federal abortion right if it was “not prescribed by the [challenged] statute.” *Nixon*, 220 S.W.3d at 744. Unlike Missouri’s Right to Reproductive Freedom, the considerably weaker federal abortion right did not make abortion restrictions presumptively invalid, much less cabin states’ compelling interests to the promotion of patients’ autonomy and health and widely accepted standards of medicine. *See Nixon*, 220 S.W.3d at 743 (“A state may not impose an ‘undue burden’ on a woman’s decision to have an abortion before fetal viability.”) (citation omitted).

128. Lastly, the Missouri Supreme Court held that the Ban on Abortion Support did not violate young people’s federal travel right because adults could accompany them out of state if the young people satisfied Missouri’s Parental Consent and Notice Requirement—which the U.S. Supreme Court had already upheld under the federal constitution. *Id.* at 744–45 (“But [the Ban on Abortion Support] does not ban adults from accompanying minors to obtain an abortion; it simply requires those aiding or assisting

minors to obtain an abortion to comply with the parental consent laws of Missouri.”); *supra* at 23 n.52.

129. Following *Nixon*, the Ban on Abortion Support clearly does not apply to: 1) information, counseling, or referrals for legal abortion care, or 2) support provided to young people when both the supporter and the young person are outside Missouri.

130. On February 29, 2024, the State of Missouri through Attorney General Bailey filed a lawsuit in the Thirteenth Judicial Circuit of Missouri seeking to enjoin Planned Parenthood Great Plains (“PPGP”), which operates in Missouri and Kansas, from allegedly violating Missouri’s Ban on Abortion Support. Compl., *Missouri v. Planned Parenthood Great Plains*, No. 24BA-CV00990 (13th Judicial Cir. Feb. 29, 2024). Missouri claims that PPGP is helping young people in Missouri obtain legal abortions in Kansas unbeknownst to their parents and without judicial approval by 1) referring for the abortions,⁸⁶ 2) funding the abortions, and 3) funding or providing transportation and lodging. *Id.* ¶¶ 61–63. On July 31, 2024, the Western District of the Missouri Court of Appeals denied PPGP’s writ of prohibition ordering the circuit court to dismiss Missouri’s petition for failure to state a claim because “it [wa]s not clear and unequivocal that the State could prove no set of facts justifying injunctive relief under [Missouri’s Ban on Abortion Support].” Order, *Missouri v. The Honorable J. Hasbrouck Jacobs, Boone County Circuit Judge, Thirteenth Judicial Circuit*, No. WD87364, at 2 (Mo. Ct. App. July, 31, 2024).

⁸⁶ Note that the Missouri Supreme Court clarified that the Ban on Abortion Support could not apply to referrals for legal abortion care because the ban would otherwise violate the federal and state free speech rights of those supporting young people who cannot satisfy the Parental Consent and Notice Requirement. *Nixon*, 220 S.W.3d at 742.

131. On March 21, 2025, PPGP again moved to dismiss the case, this time on the grounds that the Ban on Abortion Support is unenforceable under Subsections 3, 5, and 6 of the Right to Reproductive Freedom. Suggestions In Support of Motion to Dismiss Based On the Right To Reproductive Freedom Initiative, No. 24BA-CV00990, at 4 (13th Judicial Cir. Mar. 21, 2025). On April 28, 2025, the court denied the motion to dismiss without written explanation. *See Order, State v. Planned Parenthood*, No. 24BA-CV00990 (13th Judicial Cir. Apr. 28, 2025).

132. Plaintiff Right By You has a well-founded and concrete threat of prosecution by the Attorney General and numerous prosecuting attorneys under the Ban on Abortion Support. Pursuant to the *Nixon* decision, Right By You refers young people throughout Missouri to abortion providers even if they lack parental support or judicial approval, and the Attorney General is currently prosecuting PPGP for allegedly engaging in the same conduct. Moreover, Right By You openly seeks to help young people throughout Missouri obtain abortion care even if they lack parental support contrary to Attorney General Bailey’s vow “to use every tool at its disposal to protect the unborn.”⁸⁷

133. Prosecution by the Attorney General and/or prosecuting attorneys could devastate Right By You by chilling many young people in Missouri from even contacting it, scaring off Right By You’s existing and future staff and volunteers, and undermining

⁸⁷ Press Release, Missouri Attorney General’s Office, AG Bailey Lands To Count Victories in Efforts to Protect Unborn Children, July 1, 2023, <https://ago.mo.gov/attorney-general-bailey-lands-two-court-victories-in-efforts-to-protect-unborn-children/>.

the trust that young people have in Right By You. It could also chill abortion providers from providing abortions to young people from Missouri that Right By You refers to them.

134. For these reasons, Missouri's Ban on Abortion Support prevents Right By You from providing the following support to young people in Missouri who cannot comply with the Parental Consent and Notice Requirement: 1) funding abortions, 2) funding transportation, lodging, childcare, and other costs associated with accessing abortion care, 3) making the abortion appointment and arrangements for such transportation and lodging, and 4) transporting the young people itself.

E. Missouri's Ban on Abortion Support Denies, Delays, Penalizes, and Otherwise Restricts Young People's Ability to Have an Abortion Without Promoting Young People's Autonomy and Health and Widely Accepted Standards of Medicine

135. Missouri's Ban on Abortion Support harms young people seeking abortion care in one of two ways: 1) it subjects them to the harms of the Parental Consent and Notice Requirement, or 2) it deprives young people of the financial and practical support they need to obtain an abortion. *See supra* ¶¶ 91, 93, 95, 97–98, 99–107.

136. By depriving young people of financial and practical support unless they endure the harms of the Parental Consent and Notice Requirement, Missouri's Ban on Abortion Support forces some young people to remain pregnant, give birth, and become parents. It delays other young people's abortion care, with the attendant loss of abortion options, added medical risks, added expenses, and distress. And it isolates vulnerable young people from informed and compassionate adults who seek to help them, including Plaintiff Right By You's staff and volunteers.

137. As discussed above, having to travel lengthy distances for unanticipated health care—whether out of state or within Missouri—is generally more complicated, more expensive, more time-consuming, and more distressing than obtaining the care close to home. *Supra* ¶¶ 54–57. This is particularly true for young people and particularly after *Dobbs*. *Id.*

138. Missourians, including young people, are generally ill-equipped to meet the substantial and unexpected costs of obtaining an abortion. *Supra* ¶¶ 58–64. Additionally, young people often lack a driver’s license, and common carriers typically bar them from buying rides or tickets on their own. *Supra* ¶ 65. Likewise, Airbnb and many hotels will not sell accommodations to a young person without an adult’s involvement. *Id.*

139. Consequently, many young people in Missouri need extensive financial and practical support to obtain an abortion. That includes arranging and paying for: transportation from their home to their abortion appointment, lodging within and outside Missouri for their journey, meals within and outside Missouri during their journey, and childcare within Missouri until they return home. *Supra* ¶ 56.

140. Missouri’s Ban on Abortion Support requires these young people to secure parental consent and notice even if they are seeking an abortion in a state without a parental involvement requirement (such as Illinois). As discussed above, this undermines their doctor-patient relationship. *Supra* ¶¶ 12, 85, 107.

141. Moreover, no juvenile courts are currently accepting petitions to bypass the parental consent and notice requirement, so there is no way to obtain a judicial bypass of the requirement right now. *Supra* ¶ 74.

142. Thus, Missouri's Ban on Abortion Support currently forces trusted relatives and organizations, including Plaintiff Right By You, to withhold critical support from young people who cannot secure parental consent and notice of their abortion. *Supra* ¶¶ 19, 24, 135–36. Paradoxically, as children of unavailable, incapacitated, abusive, or unsupportive parents, these are the young people who need support the most. *Supra* ¶¶ 86–88.

143. Missouri's ban on financial and practical support to obtain an abortion forces some of these vulnerable young people to remain pregnant, give birth, and become a parent. Young people in Missouri who want to remain pregnant face no such state coercion.

144. Missouri's Ban on Abortion Support also delays young people's abortion care as they try to scrape together resources, only to have to push back their abortion appointments, and face a loss of abortion options, added medical risks, and added expenses as a result. *Supra* ¶ 136.

145. And by isolating vulnerable young people from informed and compassionate adults who seek to help them—such as Plaintiff Right By You's staff and volunteers—the ban makes an already demanding journey to obtain an abortion that much lonelier, stigmatizing, and nerve-wracking.

146. Once the judicial bypass process resumes in Missouri, the only way that young people who cannot secure parental consent and notice will be able to receive the support they need to obtain an abortion will be to undergo a punishing court proceeding. *See supra* ¶¶ 95–104.

147. Missouri cannot demonstrate that the Ban on Abortion Support promotes young people’s autonomy and health and widely accepted standards of medicine. The Ban on Abortion Support fails to provide any benefits because the Parental Consent and Notice Requirement itself fails to provide any benefits.

IV. The Right to Reproductive Freedom is Extensive and Imposes Heavy Burdens on Missouri to Show That Any Abortion Restrictions Promote Patients’ Autonomy and Health and Widely Accepted Standards of Medicine

148. On November 5, 2024, Missourians adopted a citizen initiative petition that amended the Missouri Constitution to protect their “fundamental right to reproductive freedom, which is the right to make and carry out decisions about *all matters* relating to reproductive health care, including . . . abortion care.” Mo. Const. art. I, § 36.2 (emphasis added).

149. Under the Right to Reproductive Freedom, “[n]o person shall be penalized, prosecuted, or otherwise subjected to adverse action based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to . . . abortion.” *Id.* § 36.5.

150. “Nor shall any person *assisting a person in exercising their right to reproductive freedom* with that person’s consent be penalized, prosecuted, or otherwise subjected to adverse action for doing so.” *Id.* (emphasis added).

151. Further, “[t]he Government shall not discriminate against persons providing or obtaining reproductive health care or *assisting another person in doing so.*” § 36.5 (emphasis added).

152. The Right to Reproductive Freedom prohibits Missouri from “den[ying], interfer[ing] with, delay[ing], or otherwise restrict[ing]” reproductive freedom “unless the Government demonstrates that such action is justified by a compelling governmental interest achieved by the least restrictive means.” *Id.* § 36.3.

153. “[A] governmental interest is compelling only if”: 1) “it is for the limited purpose and has the limited effect of improving or maintaining the health of a person seeking care,” 2) “is consistent with widely accepted clinical standards of practice and evidence-based medicine,” and 3) “does not infringe on that person’s autonomous decision-making.” *Id.*

154. “*Any* denial, interference, delay, or restriction of the right to reproductive freedom shall be presumed invalid.” *Id.* (emphasis added).

155. The Right to Reproductive Freedom includes all people of childbearing age.⁸⁸ Indeed, the text of the amendment makes clear that the right is expansive. It expressly

⁸⁸ A Missouri Supreme Court Justice reached this very conclusion in dissent from the Court’s holding that the petition to propose the reproductive freedom amendment was constitutional. “Amendment 3 prohibits government infringement ‘upon a person’s fundamental right to reproductive freedom,’ which includes ‘the right to make and carry out decisions about . . . abortion care.’ The usage of the broad word ‘person’ makes no exception for minors. Therefore, Amendment 3 directly conflicts with [Missouri’s] parental consent requirement and will impliedly repeal that section, if passed.” *Coleman v. Ashcroft*, 696 S.W.3d 347, 380 (Mo. 2024) (Broniec, J., dissenting); *see id.* at 352 (holding that the Missouri Supreme Court has never “require[d] a petition proposing a constitutional amendment to identify all *statutes* that might later be declared invalid in whole or in part if the constitutional amendment is approved by the voters.”). Likewise, both the Missouri Republican Party and Missouri Right to Life Political Action Committee encouraged Missourians to reject the amendment because it would eliminate “parental consent laws.” *See* Mo. GOP (@MissouriGOP), X (Aug. 21, 2024, 11:11 A.M.), <https://x.com/MissouriGOP/status/1826290978648621560>; Mo. Right to Life

extends to any “person” providing or facilitating an abortion in addition to any “person” seeking one. *Id.* § 36.1–6. The amendment leaves no doubt that laws that “delay” abortion care violate the Right to Reproductive Freedom. And the amendment carefully cabins Missouri’s potential compelling interests in an abortion restriction, which in turn must be “achieved by the least restrictive means.” *Id.* § 36.3.

156. Tellingly, the amendment spells out the one limitation to the Right to Reproductive Freedom. *Id.* § 36.4. And even then, the amendment prohibits Missouri from restricting an abortion necessary to protect the “physical or mental health” of the patient: “[T]he general assembly may enact laws that regulate the provision of abortion after Fetal Viability provided that under no circumstance shall the Government deny, interfere with, delay, or otherwise restrict an abortion that in the good faith judgment of a treating health care professional is needed to protect the life or physical or mental health of the pregnant person.”⁸⁹ *Id.*

157. The Right to Reproductive Freedom took effect on December 5, 2024. *See* Order, *Comprehensive Health*, No. 2416-CV31931, at 3.

Political Action Committee, *10 Reasons to Vote No on Pro-Abortion Amendment 3*, 10-Reasons-to-VOTE-NO-on-Pro-Abortion-Amendment-3-MRL-PAC-8-16-24.pdf (last visited Apr. 25, 2025);

⁸⁹ The Right to Reproductive Freedom defines “[f]etal [v]iability” as “the point in pregnancy when, in the good faith judgment of a treating health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus’s sustained survival outside the uterus without the application of extraordinary medical measures.” Mo. Const. art. I, § 36.8(1).

158. On December 20, 2024, a Jackson County Circuit Court preliminarily enjoined more than a dozen Missouri abortion restrictions because they violate abortion patients’ Right to Reproductive Freedom. These include, but are not limited to: a biased counseling requirement⁹⁰; requirements that abortion providers have admitting privileges at a nearby hospital and have certain physicians indefinitely on call to treat any complications from a medication abortion; a mandatory delay for abortion care; and bans on telemedicine abortions, abortions because the fetus may have Down Syndrome, abortions after twenty weeks of pregnancy,⁹¹ and abortions at any point in pregnancy.⁹² Order, *Comprehensive Health*, No. 2416-CV31931, at 9–20.

159. The court initially declined to enjoin a requirement that a health center or doctor’s office obtain a license from the Department of Health and Social Services (“DHSS”) before providing any abortions. *Id.* at 12–13. No health center or doctor’s office was able to obtain the license, which involves “a requirement to provide a medically unnecessary and invasive pelvic exam to all patients” and “strict hospital-like physical

⁹⁰ This requirement applies even to out-of-state abortion care. § 188.033, RSMo.

⁹¹ As measured from the first day of a patient’s last menstrual period (“lmp”).

⁹² By contrast, the court declined to preliminarily enjoin two challenged abortion restrictions. The court declined to preliminarily enjoin a requirement that the abortion provider counsel the patient in person under the theory that an in-person appointment may be necessary to confirm gestational age and rule out an ectopic pregnancy, and that any scheduling issues associated with the requirement that the provider do the counseling may be alleviated by the injunction against the mandatory delay requirement. Order, *Comprehensive Health*, No. 2416-CV31931, at 18–19. Additionally, the court declined to preliminarily enjoin a prohibition against Advanced Practice Clinicians providing abortions because plaintiffs brought a facial challenge and “there may be a compelling governmental interest to allow only physicians to perform some kinds of abortion care.” *Id.* at 20.

requirements that most health centers . . . simply do not meet.” Pls.’ Mot. for Reconsideration & Suggestions in Support, *Comprehensive Health*, No. 2416-CV31931, at 2 (Dec. 30, 2024). On February 14, 2025, the court granted the *Comprehensive Health* plaintiffs’ motion for reconsideration of the licensure ruling. Order, *Comprehensive Health*, No. 2416-CV31931 (Feb. 14, 2025).⁹³ No facility was even eligible to provide abortion care until then.⁹⁴

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Right to Reproductive Freedom – Parental Consent and Notice Requirement)

160. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 159.

161. Because the Parental Consent and Notice Requirement violates young people’s Right to Reproductive Freedom, and Plaintiff’s right to help them exercise that

⁹³ The defendants appealed both the December 20 and February 14 decisions after Missouri enacted a statute authorizing the Attorney General to appeal a preliminary injunction decision barring the State or a statewide official from enforcing a law. Notice of Appeal, *Comprehensive Health of Planned Parenthood v. Missouri*, No. 2416-CV31931 (16th Cir. Ct. Jackson Cnty. Apr. 24, 2025); S.B. 22, 2025 Mo. Leg., 103rd Gen. Assemb., Reg. Sess. (Mo. 2025). That law has been challenged on the basis that it is unconstitutional. *See Lawsuit challenges the constitutionality of Missouri attorney general’s new powers*, St. Louis Business J. (Apr. 25, 2025), <https://www.bizjournals.com/stlouis/news/2025/04/25/constitutionality-challenged-mo-attorney-general.html>.

⁹⁴ The exception is hospitals, which historically have provided an extremely limited number of abortions each year.

freedom, the requirement must be declared unconstitutional, and the Defendants must be enjoined from implementing, enforcing, or applying it.

SECOND CLAIM FOR RELIEF

(Right to Reproductive Freedom –Ban on Abortion Support)

162. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 161.

163. Because the Ban on Abortion Support violates young people’s Right to Reproductive Freedom, and Plaintiff’s right to help them exercise that freedom, the ban must be declared unconstitutional, and the Defendants must be enjoined from implementing, enforcing, or applying it.

THIRD CLAIM FOR RELIEF

(Right to Reproductive Freedom – Section 431.061(1)(4)(a), RSMo)

164. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 163.

165. To the extent that Defendants construe the exclusion of “abortion” from Section 431.061(1)(4), RSMo as requiring anyone other than the young person herself to consent to her abortion—which is an improper reading of the statute—that interpretation violates young people’s Right to Reproductive Freedom, and must be declared unconstitutional.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request that this Court:

- A) Enter a declaratory judgment that the Parental Consent and Notice Requirement, § 188.028, RSMo, violates the Missouri Constitution, Article I, Section 36;
- B) Enter a declaratory judgment that the Ban on Abortion Support, § 188.250, RSMo, violates the Missouri Constitution, Article I, Section 36;
- C) Enter a declaratory judgment that Section 431.061(1)(4)(a), RSMo, violates the Missouri Constitution, Article I, Section 36, to the extent that Defendants improperly construe the statute as requiring anyone other than the young person herself to consent to her abortion;
- D) Preliminarily enjoin Defendants and their employees, agents, and successors in office from enforcing the Parental Consent and Notice Requirement, § 188.028, RSMo, and the Ban on Abortion Support, § 188.250, RSMo, on their face and/or in any circumstances in which their enforcement would be unconstitutional;
- E) Permanently enjoin Defendants and their employees, agents, and successors in office from enforcing the Parental Consent and Notice Requirement, § 188.028, RSMo, and the Ban on Abortion Support, § 188.250, RSMo, on their face and/or in any circumstances in which their enforcement would be unconstitutional;
- F) Award reasonable fees and expenses under § 527.100, RSMo; and
- G) Grant such other and further relief as the Court deems just and proper.

Dated: April 30, 2025

Respectfully submitted,

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**Motion for admission pro hac vice
forthcoming*

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