IN THE IOWA SUPREME COURT
No. 23-1145

PLANNED PARENTHOOD OF THE HEARTLAND, INC., EMMA GOLDMAN CLINIC, and SARAH TRAXLER M.D.,

Petitioners-Appellees,

v.

KIM REYNOLDS ex rel. STATE OF IOWA, and IOWA BOARD OF MEDICINE

Respondents-Appellants.

On Appeal from the Iowa District Court for Polk County
The Honorable Joseph Seidlin, Case No. EQCE089066

BRIEF OF AMICI CURIAE 45 MEMBERS OF THE IOWA LEGISLATURE, AND THE AMERICAN CENTER FOR LAW & JUSTICE IN SUPPORT OF APPELLANTS

Chuck Hurley
THE FAMILY LEADER
[redacted]

Counsel for Amici Curiae, Members of the Iowa Legislature, and the American Center for Law & Justice

Olivia F. Summers*
AMERICAN CENTER FOR LAW & JUSTICE
[redacted]

* PHV application pending

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INTEREST OF *AMICI CURIAE*

The Iowa General Assembly is the lawmaking body for the State of Iowa. Iowa Const. art. III, § 1. Like this Court's members, Iowa legislators take an oath to support Iowa's Constitution. *See* Iowa Const. art. III, § 32. Accordingly, amici legislators[1] have an interest in any proceeding implicating the faithful application of Iowa's Constitution. That interest is heightened here for at least two reasons. First, amici seek to vindicate their support of legislation that protects innocent, preborn life by prohibiting elective abortions following detection of a fetal heartbeat. Second, the standard of review that is applied to regulations of abortion implicates significant separation-of-powers principles.

For over thirty years, amicus ACLJ has been at the forefront of the fight to defend the sanctity of human life and the rights of preborn children.[2] Since the Supreme Court effectively moved the issue of abortion to the state level with its decision in *Dobbs v. Jackson Women's Health Organization*, it is now more important than ever to monitor the abortion laws in each state.

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[1] A complete list of the amici legislators is included in the addendum.

[2] Pursuant to Iowa R. App. P. 6.906(4)(d), no counsel for any party authored this brief in whole or in part. No person or entity, aside from amicus, its members, or its counsel made a monetary contribution intended to fund the preparation or submission of this brief. All parties consented to the filing of this brief (see attached addendum).

The ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the freedoms of speech and religion. The ACLJ regularly represents parties and submits amicus curiae briefs in state and federal courts on behalf of itself and legislators in litigation involving the right to life and constitutional law. *See, e.g., Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022); *June Med. Servs. v. Russo*, 140 S. Ct. 2103 (2020); *Whole Woman's Health v. Hellerstedt*, 579 U.S. 582 (2016); *Gonzales v. Carhart*, 550 U.S. 124 (2007); *Whitmer v. Linderman*, 973 N.W.2d 618 (Mich. 2022); *Oklahoma Call for Reprod. Just. v. O'Connor*, No. 120543 (Okla. 2022).

The ACLJ's important decades-long role in precedential cases involving abortion is perhaps best illustrated by the *Dobbs* Court's citation and reliance upon two cases argued by the ACLJ at the United States Supreme Court: *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263 (1993), and *Hill v. Colorado*, 530 U.S. 703 (2000). The *Dobbs* majority cited *Bray* in support of its pivotal finding that the "goal of preventing abortion" does not constitute "'invidiously discriminatory animus' against women," *Dobbs*, 142 S. Ct. at 2246 (quoting *Bray*, 506 U.S. at 273–74), and *Hill*, as just one of a host of cases demonstrating how the Court's abortion jurisprudence led to the

distortion of numerous background legal principles in other areas of the law, including those involving the First Amendment. *Id*. at 2276. The ACLJ is also committed to the constitutional principles of state sovereignty and federalism, both of which are threatened by the Petitioners' attempt to bar the legislative branch from regulating abortion.

INTRODUCTION

By challenging Iowa Code § 146E, Petitioners are asking this Court to assert that there is a right to abortion found within the Iowa Constitution.[3] Only recently did this Court clarify that there is no such right within the Iowa Constitution and that its previous decision was constrained by *Roe v. Wade* and other U.S. Supreme Court decisions on abortion. This Court should now uphold its decision that no right to abortion exists in the Iowa Constitution,[4]

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[3] Iowa Code § 146E (2023) is a heartbeat abortion ban. It prohibits abortion when a fetal heartbeat is detected, except in cases of medical emergency, or fetal heartbeat exceptions (rape, incest, miscarriage, or fetal abnormality incompatible with life).

[4] *Planned Parenthood of the Heartland, Inc. v. Reynolds*, 975 N.W.2d 710, 740 (Iowa 2022) ("We note that on the specific topic of abortion, the Iowa Constitution is silent: if one were to search the constitution's text for terms such as 'abortion' and 'pregnancy,' it would yield no results. Therefore, if a right to have an abortion is in our state's constitution, it must be encompassed in some more general textual source. In *PPH II* [*Planned Parenthood of the Heartland, Inc. v. Reynolds*, 962 N.W.2d 37 (Iowa 2021)], we named the due process clause as that broader source. 915 N.W.2d at 232-33 (majority opinion). But, upon examination, the language of that provision does not support *PPH II*'s ultimate holding.") ("Historically, there is no support for abortion as a fundamental constitutional right in Iowa.").

and it should uphold the heartbeat law. As this Court has recognized, "Constitutions—and courts—should not be picking sides in divisive social and political debates unless some universal principle of justice stands on only one side of that debate." *Planned Parenthood of the Heartland, Inc. v. Reynolds*, 975 N.W.2d 710, 741-42 (Iowa 2022).

Abortion implicates many significant interests—including those of the preborn child who may be killed, the child's parents, the government, and the public—and it also "presents a profound moral issue on which Americans hold sharply conflicting views." *Dobbs*, 142 S. Ct. at 2240. The basic premise of this lawsuit, however, is that the Iowa Constitution gives one group of human beings (pregnant women) a privacy-based "right" to intentionally kill other separate, unique, living human beings (preborn children), and neither the public nor the legislative branch of government has much, if any, say in the matter.

The question of when and whether the law should authorize, or at least excuse, the intentional killing of a living human being is *never* a primarily *private* question. To the contrary, both the public and the government clearly have *compelling* interests at stake whenever human life is being taken, regardless of whether the circumstance entails abortion, capital punishment, murder, defense of self or others, military operations, suicide, or euthanasia.

The fact that a particular killing impacts the individuals involved more directly than it affects the general public does *not* render legislatures powerless to carefully weigh the competing interests at stake and set policies that reflect the values of the public.

More generally, State legislatures have ample room to regulate conduct where one's exercise of a purported right directly harms others. The Iowa Constitution does not enshrine an individual "right" to intentionally kill other human beings. The policy arguments raised by Petitioners should be presented *to the proper audience*: the legislature and the public at large. The amendment to the state constitution proposed by Petitioners must occur, if it occurs at all, *through the constitutional amendment process*, not through the amendment-by-litigation strategy that this lawsuit represents. Iowa Const. art. X, § 1-3 (amendment process). This Court should reject Petitioners' request to effectively destroy the rightful authority of the public and the legislature to weigh the various significant interests at play and determine abortion policy.

ARGUMENT

I. Petitioners' Position is Contrary to the Separation of Powers Ensured by the Iowa Constitution.

By effectively asking this Court to strip the legislature (and ultimately the public) of its authority to make abortion policy, this lawsuit raises significant separation of powers concerns that extend well beyond the issue of

abortion. *See Sojourner T v. Edwards*, 974 F.2d 27, 31-32 (5th Cir. 1992) (Garza, J., concurring specially) ("In essence, *Casey* is not about abortion; it is about power."). As the Idaho Supreme Court has done, this Court should recognize that making abortion policy "is not the role of the judiciary. Instead, [the judiciary's] role is to remain faithful to the fixed rule of law" established by precedent over many years. *Planned Parenthood Great Nw. v. State*, 522 P.3d 1132, 1195 (Idaho 2023). Like in Idaho, Iowans who "are dissatisfied with the policy choices the legislature has made or wish to enshrine a fundamental right to abortion" in Iowa's Constitution "can make these choices for themselves through the ballot box." *Id*. This Court should look to its own precedent and the precedent of the United States Supreme Court. "To do otherwise usurps the policy-making role of the legislature and violates [the judiciary's] obligation to maintain the separation of powers that forms the basis of our government." *Id*.

Every judge-made or judge-expanded right shifts power away from the political branches, thereby diminishing the right of the people to exercise their voting power to decide or influence important policy questions. Courts "'should be extremely reluctant to breathe still further substantive content' into constitutional provisions 'so as to strike down legislation adopted by a State or city to promote its welfare. Whenever the Judiciary does so, it

unavoidably pre-empts for itself another part of the governance of the country without express constitutional authority.'" *Michael H. v. Gerald D.*, 491 U.S. 110, 122 (1989) (citation omitted).

A court must proceed with great caution where, as here, a purported fundamental liberty that greatly restricts legislative authority is claimed to exist, "lest it open itself to the accusation that, in the name of identifying constitutional principles to which the people have consented in framing their Constitution, the Court has done nothing more than impose its own controversial choices of value upon the people." *Thornburgh v. Am. Coll. of Obstetricians & Gynecologists*, 476 U.S. 747, 790 (1986) (White, J., dissenting); *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) ("By extending constitutional protection to an asserted right or liberty interest, we, to a great extent, place the matter outside the arena of public debate and legislative action. We must therefore 'exercise the utmost care whenever we are asked to break new ground in this field,' . . . lest the [law] be subtly transformed into the policy preferences of the members of this Court."). The United States Supreme Court's admonishment (in a case that did not involve abortion) applies here:

> The respondents in this case insist that a difficult question of public policy must be taken from the reach of the voters, and thus removed from the realm of public discussion, dialogue, and

> debate in an election campaign. . . . [This] is inconsistent with the underlying premises of a responsible, functioning democracy. It is demeaning to the democratic process to presume that the voters are not capable of deciding an issue of this sensitivity on decent and rational grounds.

Schuette v. Coalition to Defend Affirmative Action, 572 U.S. 291, 312-13 (2014) (plurality).

A central theme of the *Dobbs* decision—also applicable here—was the significant harm that *Roe v. Wade*, 410 U.S. 113 (1973), *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and their progeny had done to federalism, the separation of powers, and the public's voting rights, which are concerns that go well beyond the issue of abortion policy. The Court acknowledged that *Roe* "represented the 'exercise of raw judicial power'" and "abruptly ended" the State legislatures' process of reviewing and modifying abortion laws. *Dobbs*, 142 S. Ct. at 2241. Whereas *Roe* improperly took legislative authority away, the Court recognized in *Dobbs* that it "has neither *the authority* nor the expertise to adjudicate" disputes over the pros and cons of abortion-related policies. *Id.* at 2277 (emphasis added).

The *Dobbs* Court noted that its decision restored abortion policymaking authority to the people and their elected representatives, *specifically mentioning the State legislatures*:

> [T]he people of the various States may evaluate those interests differently. In some States, voters may believe that the abortion right should be even more extensive than the right that *Roe* and *Casey* recognized. Voters in other States may wish to impose tight restrictions based on their belief that abortion destroys an "unborn human being." Our Nation's historical understanding of ordered liberty does not prevent *the people's elected representatives* from deciding how abortion should be regulated. . . .
>
> [T]he authority to regulate abortion must be returned *to the people and their elected representatives*.

Id. at 2257, 2279 (majority opinion) (citation omitted) (emphasis added).

Hence, leaving aside the question whether the basic human right to life and equal protection of the law limit a state's ability to permit the killing of a category of human beings, the Iowa legislature, not the Iowa courts, must make abortion law in the State of Iowa. The Iowa Constitution declares:

> The powers of the government of Iowa shall be divided into three separate departments — the legislative, the executive, and the judicial: and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

Iowa Const. art. III, § 1 (Departments of Government).

As this Court previously held, "the power of a legislative body to exercise its legislative functions cannot be abridged by either another branch of government or by an earlier-elected body of the same branch." *Site A Landowners v. S. Cent. Reg'l Airport Agency*, 977 N.W.2d 486, 497 (Iowa

2022). This Court has recognized that "[i]t is not the function of the courts to legislate and they are constitutionally prohibited from doing so." *Hansen v. Haugh*, 149 N.W.2d 169, 172 (Iowa 1967) (citing Iowa Const. art. III, § 1). Thus, the judiciary must allow the legislature to act within its constitutional authority to create the laws of Iowa. *See* Iowa Const. art. III, § 1 (General Assembly).

Before *Dobbs*, numerous opinions of individual Supreme Court Justices and other courts and judges raised similar concerns about the improper usurpation of legislative authority.[5] It would be a significant defeat for the separation of powers and the rule of law if, shortly after the State legislatures had their authority to determine abortion policy rightly restored to them after a half-century, State courts usurped that authority. This Court should reject Petitioners' request that the Court do so.

II. The Court-Created Right That Petitioners Seek Would Improperly Short-circuit the Democratic Process.

[5] *See, e.g., Casey*, 505 U.S. at 979, 987 (Scalia, J., concurring in part and dissenting in part) ("The permissibility of abortion, and the limitations upon it, are to be resolved like most important questions in our democracy: by citizens trying to persuade one another and then voting. . . . [T]he joint opinion's verbal shell game will conceal raw judicial policy choices concerning what is 'appropriate' abortion legislation."); *MKB Mgmt. Corp. v. Stenehjem*, 795 F.3d 768, 774-76 (8th Cir. 2015) (abortion policymaking "is better left to the states. . . . 'To substitute its own preference to that of the legislature in this area is *not* the proper role of a court.'") (citation omitted; emphasis added).

Roe's evisceration of the public's right to influence abortion policy through their elected officials "sparked a national controversy that has embittered our political culture for a half century." *Dobbs*, 142 S. Ct. at 2241. *Dobbs* emphasized the disruptive impact that *Roe*'s improper short-circuiting of the democratic process had across the country:

> [W]ielding nothing but "raw judicial power," . . . the [*Roe*] Court usurped the power to address a question of profound moral and social importance that the Constitution unequivocally leaves for the people. *Casey* described itself as calling both sides of the national controversy to resolve their debate, but in doing so, *Casey* necessarily declared a winning side. Those on the losing side—those who sought to advance the State's interest in fetal life—could no longer seek to persuade their elected representatives to adopt policies consistent with their views. The Court short-circuited the democratic process by closing it to the large number of Americans who dissented in any respect from *Roe*. . . .

Dobbs, 142 S. Ct. at 2265 (citations omitted).

Petitioners similarly ask this Court to exceed its constitutional authority and exercise raw judicial power by creating a constitutional abortion right. When courts improperly constitutionalize important matters of legislative policy, thereby making the judiciary the ultimate policy-making body, they exceed their authority and jeopardize their legitimacy. Asking a court to purport to "objectively assign weight to . . . [the] imponderable values" implicated by abortion would facilitate "judicial arbitrariness," destroy predictability, and require the court "to act as legislators, not judges, and result

in nothing other than an 'unanalyzed exercise of judicial will' in the guise of a 'neutral utilitarian calculus.'" *June Med. Servs.*, 140 S. Ct. at 2135-36 (Roberts, C.J., concurring) (citation omitted).

The Iowa Constitution dictates, "All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it." Iowa Const. art. I, § 2 (emphasis added). In addition, the Iowa General Assembly is the lawmaking body for the State of Iowa. Iowa Const. art. III, § 1. Hence, as the elected representatives of the people, the Iowa legislature is the proper branch of the government to create abortion law in the State, as the people of Iowa have delegated their lawmaking authority to the legislature and not the judiciary. Iowa courts are prohibited from legislating by Iowa's constitution. *Hansen*, 149 N.W.2d at 172.

Significantly, in *Dobbs*, the United States Supreme Court officially affirmed that the authority to regulate and prohibit abortion in a state has returned to the citizens of the state and their elected representatives. *Dobbs*, 142 S. Ct. at 2240. Amici are asking the Iowa Supreme Court not to exceed its constitutional authority and consequently usurp the democratic process by making itself the ultimate decider on abortion policy.

III. The Legislature and the Public Have the Power to Decide That Preborn Human Beings, like Human Beings That Have Already Been Born, Are Worthy of Legal Protection and Basic Dignity.

Throughout history, there has been a recurring debate over the extent to which a living human being should be entitled to legal protection and basic dignity, and whether that protection is independent of his or her medical conditions, expected quality of life, and perceived potential to contribute to society, etc. *See, e.g., Glucksberg*, 521 U.S. at 729. It is well established, however, that "a State may properly decline to make judgments about the 'quality' of life that a particular individual may enjoy, and simply assert an unqualified interest in the preservation of human life." *Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 282 (1990); *Glucksberg*, 521 U.S. at 729 ("[The State] . . . insists that all persons' lives, from beginning to end, regardless of physical or mental condition, are under the full protection of the law."). For instance, a state legislature has substantial leeway to ensure that the lives of human beings who have a disability or terminal condition are no less valued than the lives of others. *Glucksberg*, 521 U.S. at 731-32. The task of weighing the "unquestionably important and legitimate" interests at play when the lives of these individuals are at risk is a quintessentially legislative task. *Id.* at 735. The State has, and may pursue through legislation, "a

legitimate and substantial interest in preserving and promoting fetal life." *Gonzales*, 550 U.S. at 145.[6]

By contrast, a court-created abortion "right" wrongfully enshrines the court's own subjective theory of life—including the point at which living human beings become entitled to basic dignity and legal protection—into constitutional law. As the *Dobbs* Court noted:

> The dissent . . . would impose on the people a particular theory about when the rights of personhood begin. According to the dissent, the Constitution requires the States to regard a fetus as lacking even the most basic human right—to live—at least until an arbitrary point in a pregnancy has passed. Nothing in the Constitution or in our Nation's legal traditions authorizes the Court to adopt that "theory of life."

Dobbs, 142 S. Ct. at 2261.

Iowa's Constitution provides equal protection for its citizens. *See* Iowa Const. art. I, § 1, 6. As this Court has held, Iowa's equal protection under the law is similar to that of the United States Constitution's equal protection. *Planned Parenthood of the Heartland, Inc. v. Reynolds*, 962 N.W.2d 37, 46

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[6] *See also Dobbs*, 142 S. Ct. at 2284 (citations omitted) (The State's "legitimate interests include respect for and preservation of prenatal life at all stages of development, . . . the protection of maternal health and safety; the elimination of particularly gruesome or barbaric medical procedures; the preservation of the integrity of the medical profession; the mitigation of fetal pain; and the prevention of discrimination on the basis of race, sex, or disability").

(Iowa 2021). Yet, it also held, "We zealously protect our constitution's equal protection mandate, but we must also respect the legislative process, which means we start with a presumption that legislative enactments are constitutional." *Id*. (citation omitted).

More generally, the State clearly has significant interests at stake when *one* person makes medical decisions that may harm *another* person; this includes decisions that parents make concerning a child. *Cruzan*, 497 U.S. at 287 n.12 (emphasis added) ("[T]he choice made by a competent person to refuse medical treatment, and the choice made *for an incompetent person by someone else* to refuse medical treatment, are so obviously different that the State is warranted in establishing rigorous procedures for the latter class of cases which do not apply to the former class."); *Thornburgh*, 476 U.S. at 792 n.2 (White, J., dissenting) ("[P]arents have a fundamental liberty to make decisions with respect to the upbringing of their children. But no one would suggest that this fundamental liberty extends to assaults committed upon children by their parents."). The type of abortion "right" asserted here is fundamentally different from the kind of freedoms that are actually protected by the federal and State constitutions because "[a]bortion is a unique act" that entails the intentional harm of killing living human beings. *Dobbs*, 142 S. Ct. at 2243, 2258, 2277 (internal quotation marks omitted; citation omitted).

IV. The Iowa Constitution Does Not Give Abortion Providers a Unique Privilege to Engage in Practices That the Legislature Deems to be Unethical or Harmful.

State Legislatures have broad discretion to regulate the medical profession, including to "protect[] the integrity and ethics of the medical profession." *Gonzales v. Carhart*, 550 U.S. 124, 157 (2007) (quoting *Glucksberg*, 521 U.S. at 731). Abortion providers have no special exemption from this legislative authority; "[t]he law need not give abortion doctors unfettered choice in the course of their medical practice, nor should it elevate their status above other physicians in the medical community." *Gonzales*, 550 U.S. at 163; *see also Thornburgh*, 476 U.S. at 802-04 (White, J., dissenting).

Roe and *Casey*, however, improperly made the United States Supreme Court "the country's '*ex officio* medical board with powers to approve or disapprove medical and operative practices and standards throughout the United States.'" *Webster v. Reprod. Health Servs.*, 492 U.S. 490, 518-19 (1989) (plurality) (citation omitted). The diminishment of legislative authority to decide whether particular medical or scientific practices that raise ethical concerns or injure human beings should be prohibited inhibits the public's ability to ensure that the individuals working in those fields do not exceed the bounds of ethics and human decency. A court-created abortion "right" wrongfully enshrines the court's own subjective theory of life—including the

point at which living human beings become entitled to basic dignity and legal protection—into constitutional law. This Court should reject the Petitioners' attempt to have this Court improperly take on the role of the State's medical board concerning abortion policy.

Additionally, *Roe* and *Casey* stifled meaningful debate about "medical and scientific advances" by "render[ing] basic abortion policy beyond the power of our legislative bodies." *Stenehjem*, 795 F.3d at 774 (citation omitted). As one judge explained, "[h]ard and social science will of course progress even though the Supreme Court averts its eyes. . . . That the Court's constitutional decision making leaves our nation in a position of willful blindness to evolving knowledge should trouble any dispassionate observer. . . ." *McCorvey v. Hill*, 385 F.3d 846, 852-53 (5th Cir. 2004) (Jones, J., concurring). This Court should decline to usurp the Legislature's broad authority to review and update State abortion policy in light of new research and technological advancements, such as greater awareness of the development, humanity, and pain sensitivity of prenatal human beings.

Moreover, by stripping legislatures of their authority, *Roe* and *Casey* effectively ushered in an era of abortion provider self-regulation, with disastrous consequences. For instance, one abortion-related lawsuit produced extensive evidence that:

- "women are often herded through their procedures with little or no medical or emotional counseling,"
- "what counseling is received is heavily biased in favor of having an abortion,"
- women "are rushed through the process, and exposed -- without sufficient warning -- to health risks ranging from unsanitary clinic conditions to physical and psychological damage,"
- countless women seek post-abortion counseling for "the emotional, physical, and psychological symptoms" they experienced after the abortion, and
- in some instances, "both abortion counselors and physicians worked on commission and aggressively followed a script to encourage prompt election of the procedure."

Id. at 850-51 n.8.

The evidence in the *McCorvey* case included "about a thousand affidavits of women who have had abortions and claim to have suffered long-term emotional damage and impaired relationships from their decision," and "[s]tudies by scientists . . . [that] suggest that women may be affected emotionally and physically for years afterward and may be more prone to engage in high-risk, self-destructive conduct as a result of having had

abortions." *Id.* at 851; *Stenehjem*, 795 F.3d at 775 (same); *Gonzales*, 550 U.S. at 159 ("[S]ome women come to regret their choice to abort the infant life they once created and sustained. . . . Severe depression and loss of esteem can follow."). The type of abortion "right" asserted here is fundamentally different from the kind of freedoms that are actually protected by the federal and State constitutions because "[a]bortion is a unique act" that entails the intentional killing of living human beings. *Dobbs*, 142 S. Ct. at 2243, 2258, 2277.

The Iowa legislature has a longstanding history of regulating abortion. As early as 1843, aborting a child in Iowa was considered manslaughter. *See* Revs. Stats. of the Territory of Iowa ch. 49, § 10 (1843). With the 1851 repeal of the aforementioned statute, the Iowa legislature once again criminalized abortion just a few years later by enacting 1858 Iowa Acts ch. 58 § 1. *See* 1858 Iowa Acts ch. 58, § 1 (codified at Revs. of 1860, Stats. of Iowa § 4221 (1860)). In 1976, shortly after *Roe*, the legislature repealed its 1950 abortion law. In recent years, the legislature has passed new abortion prohibitions. Some are enforced; some are tied up in the courts.[7] The exception to the legislature's full enforceable authority was at play when *Roe* and *Casey* were not overturned. Thus, with *Dobbs* overruling these cases, the argument that

[7] *After Roe Fell: Abortion Laws by State*, Center for Reproductive Rights, https://reproductiverights.org/maps/abortion-laws-by-state/ (last visited Nov. 3, 2023).

the heartbeat bill at issue in this case is beyond the scope of the legislature's authority falls flat. In fact, it is *precisely* the legislature's authority. The legislature has historically handled the issue. *Dobbs* has reinforced that this is the proper procedure, stating, "[w]e now . . . return that authority to the people and their elected representatives." *Dobbs*, 142 S. Ct. at 2284. Therefore, this Court should leave legislative oversight of the medical profession (including abortion practice) fully intact by rejecting Petitioners' claims.

CONCLUSION

Nothing in the Iowa Constitution disables the people, through their elected representatives, from limiting or regulating abortion. Petitioners' claims are without merit and should be rejected.

Respectfully submitted,

Chuck Hurley
THE FAMILY LEADER
[redacted]

Counsel for Amici Curiae, American Center for Law & Justice

Olivia F. Summers*
AMERICAN CENTER FOR LAW & JUSTICE
[redacted]

* PHV application pending

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) or (2) because this brief contains 4,192 words, excluding the parts of the brief exempted by Iowa R. App. P. 6903(1)(g)(1).
2. This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f) because this brief has been prepared in a proportionally spaced typeface using Pages in 14 point Times New Roman typeface.

/s/ Chuck Hurley
Chuck Hurley
Counsel for Amici Curiae

Dated: November 15, 2023

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2023, I electronically filed the foregoing with the Clerk of the Supreme Court of Iowa using the Iowa Electronic Document Management System, which will accomplish service on the parties of record.

/s/ Chuck Hurley
Chuck Hurley
Counsel for Amici Curiae

ADDENDUM

WRITTEN CONSENT OF PARTIES

Im, Peter <peter.im@ppfa.org>

[PPH v. Reynolds] Consent for Amicus Briefs

3 messages

Im, Peter <peter.im@ppfa.org> Tue, Oct 17, 2023 at 11:04 AM
To: "Wessan, Eric" <eric.wessan@ag.iowa.gov>, daniel.johnston@ag.iowa.gov, Rita Bettis Austen <rita.bettis@aclu-ia.org>, Sharon Wegner <sharon.wegner@aclu-ia.org>, Anjali Salvador <anjali.salvador@ppfa.org>, Dylan Cowit <dylan.cowit@ppfa.org>, Caitlin Slessor <CLS@shuttleworthlaw.com>, Sam Jones <SEJ@shuttleworthlaw.com>

Good morning counsel,

We have received a request for consent to file an amicus brief in support of the appellants in Planned Parenthood of the Heartland v. Reynolds. As we've done in previous cases, would you consent to a blanket agreement to consent to all amicus briefs filed for either side?

Thanks,
Peter

--
Peter Im (he/him)
Staff Attorney
Public Policy Litigation & Law
Planned Parenthood Federation of America
peter.im@ppfa.org
(646) 398-1453

Wessan, Eric <Eric.Wessan@ag.iowa.gov> Tue, Oct 17, 2023 at 11:08 AM
To: "Im, Peter" <peter.im@ppfa.org>, "Johnston, Daniel" <Daniel.Johnston@ag.iowa.gov>, Rita Bettis <rita.bettis@aclu-ia.org>, Sharon Wegner <sharon.wegner@aclu-ia.org>, Anjali Salvador <anjali.salvador@ppfa.org>, Dylan Cowit <dylan.cowit@ppfa.org>, Caitlin Slessor <CLS@shuttleworthlaw.com>, "sej@shuttleworthlaw.com" <sej@shuttleworthlaw.com>

Dear Peter,

Yes, that makes sense to me. The State agrees to blanket consent. Thank you for affirmatively reaching out.

Best,
EHW

Eric Wessan
Solicitor General
Image
Office of the Attorney General of Iowa
1305 E. Walnut St.
Des Moines, Iowa 50319
Phone: (515) 823-9117

From: Im, Peter <peter.im@ppfa.org>
Sent: Tuesday, October 17, 2023 10:04:05 AM
To: Wessan, Eric <Eric.Wessan@ag.iowa.gov>; Johnston, Daniel <Daniel.Johnston@ag.iowa.gov>; Rita Bettis <rita.bettis@aclu-ia.org>; Sharon Wegner <sharon.wegner@aclu-ia.org>; Anjali Salvador <anjali.salvador@ppfa.org>; Dylan Cowit <dylan.cowit@ppfa.org>; Caitlin Slessor <CLS@shuttleworthlaw.com>; sej@shuttleworthlaw.com <sej@shuttleworthlaw.com>
Subject: [PPH v. Reynolds] Consent for Amicus Briefs

[Quoted text hidden]

Im, Peter <peter.im@ppfa.org> Tue, Oct 17, 2023 at 11:10 AM
To: "Wessan, Eric" <Eric.Wessan@ag.iowa.gov>
Cc: "Johnston, Daniel" <Daniel.Johnston@ag.iowa.gov>, Rita Bettis <rita.bettis@aclu-ia.org>, Sharon Wegner <sharon.wegner@aclu-ia.org>, Anjali Salvador <anjali.salvador@ppfa.org>, Dylan Cowit <dylan.cowit@ppfa.org>, Caitlin Slessor <CLS@shuttleworthlaw.com>, "sej@shuttleworthlaw.com" <sej@shuttleworthlaw.com>

Appreciate the quick response.

Best,
Peter
[Quoted text hidden]

***Amici* State Senators**

Sen. Kevin Alons

Sen. Mark Costello

Sen. Rocky De Witt

Sen. Lynn Evans

Sen. Julian B. Garrett

Sen. Jesse Green

Sen. Dennis Guth

Sen. Tim Kraayenbrink

Sen. Jeff Reichman

Sen. David D. Rowley

Sen. Sandy Salmon

Sen. Jeff Taylor

Sen. Cherielynn Westrich

***Amici* State Representatives**

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Majority Leader Matt W. Windschitl

Majority Whip Henry Stone

Assistant Majority Leader Jon Dunwell

Assistant Majority Leader Craig P. Johnson

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Rep. Ken Carlson

Rep. Zach Dieken

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Rep. Joel Fry

Rep. Dan Gehlbach

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