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Clerk
Marion County, Indiana

STATE OF INDIANA	)	IN THE MARION SUPERIOR COURT
	)	
COUNTY OF MARION	)	CAUSE NO.

ANONYMOUS PLAINTIFFS 1-5,	)
on their own behalf and on	)
behalf of those similarly situated;	)
HOOSIER JEWS FOR CHOICE,	)
	)
Plaintiffs,	)
	)
v.	)
	)
THE INDIVIDUAL MEMBERS OF THE	)
MEDICAL LICENSING BOARD OF	)
INDIANA;	)
and the MARION COUNTY PROSECUTOR,	)
LAKE COUNTY PROSECUTOR; MONROE	)
COUNTY PROSECUTOR, ST. JOSEPH	)
COUNTY PROSECUTOR; TIPPECANOE	)
COUNTY PROSECUTOR,	)
	)
Defendants.	)

Class Action Complaint for Declaratory and Injunctive Relief

Introduction

1. Senate Enrolled Act No. 1 ("S.E.A. 1"), which was signed into law on August 5, 2022 and is effective September 15, 2022, makes virtually all abortions in Indiana unlawful. However, Indiana's Religious Freedom Restoration Act ("RFRA"), Ind. Code § 34-13-9-0.7, *et seq.*, prohibits government action that substantially burdens a person's religious exercise, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. The named

anonymous plaintiffs, like many Hoosiers, have sincere religious beliefs that direct them to obtain an abortion under circumstances prohibited by S.E.A. 1 and who are at risk of needing an abortion in the future consistent with these beliefs even though the abortion would otherwise be prohibited by S.E.A. 1.

2. S.E.A. 1 severely burdens the plaintiffs' sincere religious beliefs, and those of a putative class of those similarly situated, without justification, and a preliminary injunction, later to be made permanent, should issue that enjoins defendants from taking any action that would prevent or otherwise interfere with the ability of the plaintiffs and the class members to obtain abortions as directed by their sincere religious beliefs.

Parties

3. Anonymous Plaintiff 1 is an adult resident of Monroe County, Indiana.

4. Anonymous Plaintiff 2 is an adult resident of Allen County, Indiana.

5. Anonymous Plaintiff 3 is an adult resident of Marion County, Indiana.

6. Anonymous Plaintiff 4 is an adult resident of Monroe County, Indiana.

7. Anonymous Plaintiff 5 is an adult resident of Monroe County, Indiana.

8. Hoosier Jews for Choice is an organization with statewide membership in Indiana.

9. The Individual Members of the Medical Licensing Board ("the Medical Board") are empowered to revoke and otherwise discipline medical practitioners in Indiana. *See* Ind. Code §§ 25-0.5-3.7, 25-0.5-8-11, 25-0.5-10-17, 25-0.5-11-5, 25-22-5-. 25-33.5-8-6. They are sued in their official capacities.

10. The defendant County Prosecutors are obligated to enforce Indiana law in their respective counties. Ind. Code § 33-39-1-5. They are also sued in their official capacities.

Class action allegations

11. The individual plaintiffs bring this action on their own behalf and on behalf of a class of those similarly situated pursuant to Rule 23(B)(2) of the Indiana Rules of Trial Procedure, with the class defined as:

> All persons in Indiana whose religious beliefs direct them to obtain abortions in situations prohibited by S.E.A. 1 who need, or will need, to obtain an abortion and who are not, or will not be, able to obtain an abortion because of S.E.A. 1.

12. All the requirements of Rule 23(A) of the Indiana Rules of Trial Procedure are met with regard to the class in that:

a. The class is so numerous that joinder of all members is impracticable.

b. There are questions of law or fact common to the class: whether S.E.A. 1 violates RFRA.

c. The claims and defenses of the representative party are typical of those of the class.

d. The representative party will fairly and adequately protect the interests of the class.

13. The further requirements of Rule 23(B)(2) of the Indiana Rules of Trial Procedure are met in this action in that the defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.

Legal background

14. At the current time abortions are generally lawful in Indiana, for any reason up to the earlier of fetal viability or 20 weeks postfertilization. Ind. Code § 16-34-2-1(a).

15. An exception to this is that abortions may not be performed if the sole reason for the abortion is because the pregnant woman has been diagnosed with Down syndrome or "any other disability," or has been diagnosed as having the potential for Down syndrome or other disability. Ind. Code §§ 16-34-4-6, 7. Sex selective abortions or abortions solely because of the race, color, national origin, or ancestry of the fetus are also prohibited. Ind. Code § 16-34-4-5, 8.

16. The statutory term "any other disability" "means disease, defect, or disorder that is genetically inherited," with the exception of a lethal anomaly, which is defined as "a fetal condition diagnosed before birth that, if the pregnancy results in a live birth, will with reasonable certainty result in the death of the child not more than three (3) months after the child's birth." Ind. Code §§ 16-34-4-1; 16-25-4.5-2.

17. Subsequent to its passage, but prior to its effective date, the bans on abortions set out in Indiana Code §16-34-4-6 through Indiana Code § 16-34-4-8 were permanently enjoined. *Planned Parenthood of Indiana and Kentucky, Inc. v. Commissioner, Indiana State Dep't of Health*, 888 F.3d 300 (7th Cir. 2018), *rev'd in nonrelevant part*, –U.S.–, 139 S. Ct. 1780 (2019).

18. However, in the aftermath of the United States Supreme Court's decision in *Dobbs v. Jackson Women's Health Org.*, –U.S.–, 142 S. Ct. 2228 (2022), the permanent injunction was vacated, and the above statutes are now in effect.

19. S.E.A. 1 prohibits all abortions in Indiana, with only three exceptions.

a. An abortion may be performed if a physician determines that an "abortion is necessary when reasonable medical judgment dictates that performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life." Ind. Code § 16-34-3-1(1)(A)(i), (3)(A) (eff. Sept.15, 2022). "Serious health risk" means "a condition exists that has complicated the mother's medical condition and necessitates an abortion to prevent death or a serious risk of substantial and irreversible physical impairment of a major bodily function." Ind. Code § 16-18-2-327.9. The term expressly excludes "psychological or emotional conditions." *Id.* In one place S.E.A. 1 states that these abortions may be performed before the "earlier of viability of the fetus or twenty (20) weeks of postfertilization age of the fetus." Ind. Code § 16-34-2-1(a)(1) (eff. September 15, 2022). However, another part of the law allows these abortions to be performed "at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after." Ind. Code § 16-34-2-3 (eff. Sept. 15, 2022).

b. An abortion may be performed if a physician determines that the fetus has a "lethal fetal anomaly," as defined above, an abortion may be performed before the earlier of viability or twenty (20) weeks of postfertilization age. Ind. Code § 16-34-2-1(a)(1)A)(ii) (eff. Sept. 15, 2022).

c. And an abortion may be performed if the pregnancy is the result of rape or incest. If so the abortion may be performed "during the first ten (10) weeks of postfertilization age of the fetus." Ind. Code § 16-34-2-1(a)(2) (eff. Sept. 15, 2022).

20. S.E.A. 1 amends the pre-existing prohibitions on abortions because of disability or other status to incorporate the new restrictions in the law so that, effective September 15, 2022:

a. A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person know that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome. Ind. Code § 16-34-4-6(a) (eff. Sept. 15, 2022).

b. A person may not intentionally perform or attempt to perform an abortion allowed under IC 16-34-2 if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability. Ind. Code § 16-34-4-7(a) (eff. Sept. 15, 2022).

21. Physicians who violate the prohibitions in S.E.A. 1 face criminal penalties, Ind. Code § 16-34-2-7 (amended eff. Sept. 15, 2022), and revocation of their licenses to practice medicine, Ind. Code § 25-22.5-8-6(b)(2).

Facts

22. Although some religions, and adherents of those religions, believe that human life begins at conception (however defined), this is not a theological opinion shared by all religions or all religious persons.

23. For example, under Jewish law, a fetus attains the status of a living person only at birth. Rabbinic sources note that prior to the 40th day of gestation, the embryo is considered to be "mere water." Thereafter, the embryo or fetus is considered a physical part of the woman's body, not having a life of its own or independent rights.

24. Jewish law recognizes that abortions may occur, and should occur as a religious matter, under circumstances not allowed by S.E.A. 1 or existing Indiana law. An abortion should be allowed if necessary to prevent the mother's mental anguish that could arise

from severe physical or mental health issues, even if there is not a physical health risk that is likely to cause substantial and irreversible physical impairment of a major bodily function.

25. Jewish law stresses the necessity of protecting the life and physical and mental health of the mother prior to birth as the fetus is not yet deemed to be a person. As noted by the 19th century Orthodox Rabbi, Moshe of Pressburg, "[N]o woman is required to build the world by destroying herself."

26. Any restrictions imposed on a Jewish woman who believes in and follows Jewish law that demands that a fetus not be protected at the expense of serious consequences to the woman's physical or mental health violates and substantially burdens the woman's sincere religious beliefs and religious exercise.

27. Islam does not believe that the fetus is ensouled at the moment of conception and some Muslim scholars take the position that the fetus does not possess a soul until 120 days after conception. This is based on a tradition in which the Prophet (SAW) mentions that an angel breathes the soul into the fetus by 120 days.

28. Muslim scholars therefore indicate that within 40 days of conception it is proper and appropriate to seek an abortion for any reason, including reasons not authorized by S.E.A. 1, and under certain circumstances, the woman should seek an abortion.

29. Once the fetus reaches 40 days after conception, conservative Muslim scholars believe that an abortion can still be obtained if there is a pressing need that justifies it in

the eyes of Islamic law. This pressing need includes the physical or mental health of the mother and therefore would allow or direct abortions, even in situations prohibited by S.E.A. 1.

30. Thus, in a number of Muslim-majority nations, such as Kuwait, Jordan, Qatar, Bahrain, and the United Arab Emirates, abortion may occur in cases of a risk to a woman's mental or physical health. They may also occur in those countries in cases of fetal impairment.

31. S.E.A. 1 will deny Muslim women the ability to obtain abortions when they are authorized or directed to do so by Islamic law. This will impose a substantial burden on their sincere religious beliefs and the exercise of their religion.

32. Unitarian Universalists have long supported reproductive justice.

33. A core belief of Unitarian Universalists is that every human being has inherent worth and dignity. This is an endowed right given to us by the Creator.

34. Unitarian Universalists believe that a person who is pregnant should be entitled to obtain an abortion and if the person is blocked by the law or outside authorities, their endowed rights are impinged upon.

35. Being denied the ability to obtain an abortion when a Unitarian Universalist believes an abortion is necessary breaks the covenant Unitarian Universalists have to honor their own inherent worth and dignity and will impose a substantial burden on the sincere religious beliefs and exercise of a Unitarian Universalist.

36. The Episcopal Church holds that equitable access to women's health care, which includes reproductive health care, is an integral part of a woman's struggle to assert her dignity and worth as a human being,

37. Therefore, an Episcopal cleric may counsel a woman seeking an abortion where to continue the pregnancy would cause serious mental health or physical problems, even if the health problem would not involve a serious risk of substantial and irreversible physical impairment of a major bodily function, that it is morally and religiously permissible for the individual to obtain the abortion, as her life and wellbeing are of primary importance at that point.

38. Therefore the Episcopal Church affirms that abortions may occur under situations not allowable by S.B. 1 or by other Indiana laws.

39. Paganism is an umbrella term that comprises many spiritual belief systems that are polytheistic in nature.

40. These spiritual belief systems play similar roles in the lives of Pagans as do monotheistic religions for believers in those religious traditions.

41. Most Pagans recognize that there are Gods and Goddesses and stress the feminine face of divinity. Creation and life-giving are seen as feminine acts.

42. Because of this, Pagans emphasize the importance of women being free and autonomous as representations of the Goddess, in her many forms.

43. Most Pagans therefore demand, as part of their religious and spiritual tradition, that women have full bodily autonomy, free from interference from others.

44. Therefore, as a matter of religious and spiritual belief, many Pagans believe that in recognition of a woman's autonomy demanded by their sincere beliefs, women must be allowed to obtain abortions.

45. Denying a practicing Pagan the ability to obtain an abortion will impose a substantial burden on her sincere religious beliefs.

46. There are any number of other religious and spiritual beliefs that may not be associated with a particular religious tradition that would also direct a woman to seek an abortion pursuant to those beliefs.

47. Many Hoosiers therefore have sincere religious beliefs that will be substantially burdened if S.E.A. 1 goes into effect and abortions are not available.

Anonymous Plaintiff 1

48. Anonymous Plaintiff 1 is a 39-year-old woman who resides in Monroe County, Indiana.

49. Anon. 1 is married and has one child.

50. Anon. 1 is Jewish, and her religious beliefs impact and inform much of her lived experience, including her regular lifestyle, moral and ethical decisionmaking, observance of holidays, and family life.

51. For example, based upon her religious beliefs, Anon. 1 maintains a kosher-style diet. For her this includes not mixing dairy products and meat to the best of her ability and abstaining from eating pork and shellfish.

52. She belongs to a synagogue, where she is actively engaged in the religious, educational, and family programming that are important parts of her communal spiritual and social life.

53. She observes Jewish traditions and holidays, such as the Sabbath, or Shabbat, and a variety of holidays such as Rosh Hashanah, Yom Kippur, Passover, Shavuot, and Chanukah.

54. Anon. 1 grew up in a Jewish family, and her parents both work in positions of leadership within the Jewish community. She received a strong Jewish education both from her parents and through outside institutions. She has been involved in a wide variety of Jewish activities including youth group, Jewish summer camp, and a variety of community and educational activities throughout her adult life.

55. Anon. 1's religious beliefs include the Jewish belief that life begins when a child takes its first breath after being born.

56. She also believes, according to Jewish law and teachings, that the life of a pregnant woman, including her physical and mental health and wellbeing, must take precedence over the potential for life embodied in a fetus. Therefore, according to her Jewish beliefs, if her health or wellbeing—physical, mental, or emotional—were endangered by a

pregnancy, pregnancy-related condition, or fetal abnormality, she must terminate the pregnancy.

57. Anon. 1 has experienced two pregnancies.

58. Women of advanced maternal age experience a variety of heightened risk factors both to themselves and their fetuses, including increased occurrence of certain pregnancy-related health conditions and chromosomal fetal abnormalities that are not hereditary.

59. Individuals of Jewish ancestry also face a heightened risk of passing on certain genetic disorders to any children, many of which are severe and will result in profound physical and cognitive disabilities to those affected. Many of these diseases and disorders have a dramatic impact on an individual's quality of life and are certain to result in death prior to adulthood, although they may not do so prior to three months after birth.

60. Tay-Sachs disease, for example, causes progressive degeneration and destruction of the central nervous system. Symptoms usually emerge at approximately four to six months of age, when children begin to lose their previously acquired skills, such as sitting up or rolling over. After gradually losing their sight, hearing, and swallowing abilities, they usually die by the age of four. There is no cure, and approximately one in every 25 Ashkenazi Jews is a genetic carrier of Tay-Sachs disease.

61. Canavan disease is a severe degenerative disease of the central nervous system. Children born with this disease eventually lose motor function, become blind, experience brain damage, and frequently die during childhood or early adolescence. There is no cure for this disease. Approximately one in forty Ashkenazi Jews is a genetic carrier of this disease.

62. Niemann-Pick disease is a degenerative disease in which the body cannot break down a lipid called sphingomyelin. The buildup of this substance causes an inability to eat and the progressive loss of motor skills. There is no cure, and children born with this disease typically do not live past two to three years of age. Approximately one out of every 90 Ashkenazi Jews is a genetic carrier of this disease.

63. Anon. 1's first pregnancy resulted in a live birth, but Anon. 1 also experienced a variety of pregnancy-related and post-partum complications and health conditions.

64. She became pregnant again in the winter of 2021.

65. Genetic testing confirmed that Anon. 1's fetus had a severe non-hereditary chromosomal defect. In 95% of cases, this particular defect results in the fetus being either miscarried or stillborn. Where a live birth occurs, children affected by this defect have severe physical and cognitive disabilities and are never able to walk or talk. No more than 10% of children born with this defect survive beyond 12 months.

66. This pregnancy put at risk Anon. 1's physical, mental, and emotional health and wellbeing during the pregnancy and would have continued to do so if she had allowed

it to continue to a miscarriage, stillbirth, or live birth, although it would not have resulted in her death or caused a serious risk of substantial and irreversible physical impairment to a major bodily function and may not have resulted in the child dying within three months of birth.

67. Under the close care and guidance of her treating physicians and medical professionals, including a geneticist, obstetrician-gynecologist, and maternal-fetal medicine specialist, she terminated that pregnancy in March 2022, as permitted by law in Indiana as it then existed.

68. This termination was also done in accordance with Anon. 1's religious beliefs that it was required to protect her physical and mental health.

69. Anon. 1 has been informed that she has a one in 30 chance of a subsequent pregnancy resulting in the same chromosomal defect.

70. Anon. 1 has been told by her medical provider that she cannot be guaranteed the right to receive termination if a subsequent pregnancy is affected by this genetic anomaly under the new statute.

71. Anon. 1 would like to try to have another child. However, she is acutely aware of the risks to her health that such a pregnancy would involve, and she is aware of the many heightened risks of non-hereditary genetic fetal anomalies that a pregnancy would include—not just the particular fetal anomaly that she has already experienced.

72. She is also aware that because of her age she is prone to many potential serious health effects because of pregnancy including high blood pressure that could lead to pre-eclampsia and gestational diabetes. Because of her age her pregnancy is considered high risk and she is aware that a pregnancy might seriously endanger her health, without necessarily causing death or a serious risk of substantial and irreversible physical impairment of a major bodily function.

73. There are many scenarios under which Anon. 1's physical or mental health would be at risk, such that her religious beliefs would indicate that she should terminate a pregnancy, but where such a termination would not be permitted by the statute.

74. Anon. 1 is also aware that in other states, where abortion bans have already taken effect, some women have experienced extreme and emergent risks to their physical health because physicians delayed providing necessary medical care, for fear of violating similar statutes. She believes that her religion instructs her that she cannot imperil her life in that way.

75. She also believes that Judaism instructs her that a fetus is not a life.

76. Therefore, although Anon. 1 and her husband wish to try to have another child, she cannot become pregnant in Indiana unless she is able to obtain an abortion consistent with her religious beliefs and she is refraining from becoming pregnant due exclusively to the enactment of S.E.A. 1.

Anonymous Plaintiff 2

77. Anonymous Plaintiff 2 is a 30-year-old woman who resides in Allen County, Indiana.

78. Anon. 2 is married and has two children.

79. Anon. 2 does not belong to a specific religious denomination or tradition, but she holds religious and spiritual beliefs that guide her moral and ethical practices and the manner in which she lives her life.

80. She does not believe in a single, theistic god.

81. Rather, she believes that within the universe exists a supernatural force or power that connects all humans and is larger than any individual person.

82. This could be described as a universal consciousness, and because of this connectedness through a supernatural force, we are all directed to act in a manner that promotes and does not harm our fellow humans or this community of humanity.

83. She believes that we are also directed to act in a manner that gives full expression to our own humanity and inherent dignity, including by achieving our potential, assisting others in achieving their potential, and refraining from interfering with another person's full expression of humanity and dignity.

84. Central to her spiritual beliefs is the belief that we are endowed with bodily autonomy, and we are not to infringe the bodily autonomy of others. To do so constitutes a spiritual and moral wrong and inhibits the full expression of a person's humanity.

85. Anon. 2 does not believe that human life begins at conception.

86. Rather, she believes that, at least prior to viability, a fetus is a part of the body of the mother.

87. Central to her religious beliefs is that she maintains spiritual and physical autonomy over her own body, including a fetus, and it is her spiritual obligation to determine whether to remain pregnant.

88. She believes that if a pregnancy or the birth of another child would not allow her to fully realize her humanity and inherent dignity, she should terminate that pregnancy. This is so in circumstances which would not be permitted under S.E.A. 1.

89. Anon. 2 has terminated a pregnancy for precisely this reason in the past.

90. She may in the future become pregnant, and there are therefore circumstances in which her beliefs would require her to terminate a pregnancy, but such termination would not be allowed by S.E.A. 1.

91. The passage of S.E.A. 1 has caused Anon. 2 significant anxiety about the possibility of an unintended pregnancy and her inability to terminate such a pregnancy under S.E.A. 1. This anxiety has resulted in a reduction in physical intimacy between Anon. 2 and her husband, which is causing her harm.

92. For Anon. 2, this creates a barrier to feeling fully connected to and with her husband, which is another form of impingement on her religious beliefs, as that connection is central to her spiritual tenets.

93. S.E.A. 1 is substantially burdening her religious beliefs.

Anonymous Plaintiff 3

94. Anonymous Plaintiff 3 is a 24-year-old woman who resides in Marion County, Indiana and who recently graduated from college.

95. Anon. 3 is not married, does not have children, and does not want to have children at any point in the foreseeable future.

96. Anon. 3 is Muslim, and her religious beliefs influence many aspects of her life, including her moral and ethical decisionmaking, diet, observance of holidays, and family life.

97. For example, based upon her religious beliefs, Anon. 3 does not eat pork, wears a hijab, and regularly prays.

98. She observes Islamic holidays, such as Eid, and she fasts during the holy month of Ramadan.

99. Growing up, Anon. 3 went to Islamic school on Saturdays and Sundays, and during high school and college, she studied Arabic and African Islamic cultures and traditions globally.

100. Anon. 3 is aware that there are a range of views among Muslims as to when precisely life begins and the circumstances under which abortions are mandated, directed, or permitted by Islam.

101. Anon. 3's religious beliefs include the belief that life does not begin at conception. Until the fetus gains a consciousness or awareness, or perhaps a soul, known as "*ruh*" in Arabic, the fetus is only a part of the mother's body. Anon. 3 understands that under Islamic traditions, the *ruh* is breathed into a womb at around 120 days' gestation.

102. She also believes, according to the teachings of Islam, which encompass both the Qur'an and the Hadith, that the life of a pregnant woman, including her overall wellbeing, always takes precedence over a fetus.

103. She holds this belief, in part, because she understands that even among Islam's strongest beliefs and practices, a person's physical health and wellbeing is always the priority. For example, during the holy month of Ramadan, when individuals are commanded to fast between sunrise and sunset, an individual may eat if fasting would harm their health or wellbeing.

104. This harm need not take the form of a risk of death or the permanent impairment of a major bodily system—it may take the form of pain or other discomfort.

105. Therefore, according to her Islamic beliefs, if her health or wellbeing—physical, mental, or emotional—were harmed by a pregnancy or a pregnancy-related condition, she should terminate the pregnancy.

106. There are many circumstances in which such a need might arise for Anon. 3, where an abortion would be directed by her religious beliefs but prohibited by the statute, since

the statute only allows for abortion in limited circumstances involving rape, incest, permanent physical impairment of the woman (or death), and fatal fetal abnormalities.

107. This could include circumstances involving a pregnancy that was simply unwanted, as pregnancy and childbirth involve significant discomfort, pain, and health risk, or instances of risk to Anon. 3's physical health that do not pose a risk of death or permanent impairment of a major bodily system.

108. Anon. 3 has Crohn's disease and continuously takes a prescribed immunosuppressant medication. She takes a steroid medication when she has a flare-up.

109. Women with active Crohn's disease have a higher risk of miscarriage and stillbirth, which in turn pose risks to the women's health.

110. Anon. 3 understands that for her, Crohn's disease poses a risk of miscarriage.

111. This disease, in combination with a pregnancy, would also result in significant related risks to her health.

112. When she has Crohn's flare-ups, it is almost impossible for her to eat. As a result of past flare-ups, she has lost nearly 70-80 pounds over the past three years. In the midst of these episodes, she often has to receive intravenous nutrition supplements.

113. She also must continue on her immunosuppressive medication and steroids, but she understands that steroids are not advised during pregnancy.

114. Anon. 3 is at risk of becoming pregnant, and as indicated above, would seek to terminate a pregnancy under circumstances not permitted by S.E.A. 1.

115. Anon. 3 does not want to start hormonal birth control, because she is concerned about the potential side effects, particularly in light of her Crohn's disease.

116. She therefore will abstain from sexual intercourse, as that is the only way she can ensure that she will not need an abortion that would be prohibited by S.E.A. 1.

117. She is making this decision solely because of the application of S.E.A. 1.

118. S.E.A. 1 is therefore causing Anon. 3 harm in that it substantially burdens her religious beliefs and practices.

Anonymous Plaintiffs 4 and 5

119. Anonymous Plaintiffs 4 and 5 are female individuals who reside in Monroe County, Indiana and who are married to one another.

120. Anons. 4 and 5 are Jewish and their religious beliefs impact and inform much of their lived experiences, including their regular lifestyles, moral and ethical decisionmaking, observance of holidays, and family life.

121. For example, based upon their religious beliefs, they had a Jewish wedding ceremony, observe the Sabbath, or Shabbat, and have a mezuzah hung at the entrance of their home.

122. They belong to a synagogue, where they have regularly attended Shabbat services, holiday services, community gatherings, and have served on multiple committees.

123. They observe Jewish traditions and holidays, such as Rosh Hashanah, Yom Kippur, Passover, Shavuot, and Chanukah.

124. Anon. 4 was raised in the Conservative Jewish movement, regularly attending Shabbat services and religious school and observing Jewish holidays.

125. Anon. 5 was raised in the Reform Jewish tradition, observing Jewish holidays with family, and accompanying their grandmother to Shul and learning Jewish traditions.

126. Anons. 4 and 5's religious beliefs include the Jewish belief that life begins when a child takes its first breath after being born.

127. They also believe, according to Jewish law and teachings, that the life of a pregnant person, including their physical and mental health and wellbeing, takes precedence over the potential for life embodied in a fetus. Therefore, according to their Jewish beliefs, if a pregnant person's health or wellbeing—physical, mental, or emotional—were endangered by a pregnancy, pregnancy-related condition, or fetal abnormality, they are directed to terminate the pregnancy.

128. Prior to the passage of S.E.A. 1, Anons. 4 and 5 were planning to use assisted reproductive technologies in order to become pregnant. Either person could become pregnant, depending on the outcome of the medical tests and procedures required to facilitate such a pregnancy.

129. If Anons. 4 or 5 became pregnant, there are circumstances in which their religious beliefs would direct them to terminate a pregnancy, but where such a termination would be prohibited by S.E.A. 1.

130. This includes circumstances in which their physical or mental health would be harmed by a pregnancy, but where the pregnancy did not put them at risk of death or permanent impairment of a bodily system. It would also include circumstances of a non-fatal fetal anomaly or a fetal anomaly that would be fatal, but not within three months of birth.

131. Anons. 4 and 5 are also aware that in other states, where abortion bans have already taken effect, some people have experienced extreme and emergent risks to their physical health because physicians were delayed in providing necessary medical care, for fear of violating similar statutes. They believe that their religion instructs them that they cannot imperil their lives in that way.

132. They also believe that Judaism instructs them that a fetus is not a life.

133. Therefore, although Anons. 4 and 5 wish to try to have a child, they cannot become pregnant in Indiana unless they are able to obtain abortions consistent with their religious beliefs, and they are refraining from becoming pregnant due exclusively to the enactment of S.E.A. 1.

134. S.E.A. 1 is substantially burdening their religious beliefs.

Hoosier Jews for Choice

135. Hoosier Jews for Choice is a membership organization whose members reside throughout Indiana.

136. The organization exists to take action within the Jewish community and beyond to advance reproductive justice, support abortion access, and promote bodily autonomy for all people across the state of Indiana.

137. The organization's members are Jewish persons whose religious beliefs direct and influence the circumstances under which their members, and Jewish people throughout the state of Indiana, must be permitted to access abortion care consistently with their religion. The organization endorses these beliefs as well.

138. The organization and its members believe, for example, that under Jewish law and religious doctrine, life does not begin at conception, and that a fetus is considered a physical part of the woman's body, not having a life of its own or independent rights.

139. The organization and its members believe that under Jewish law an abortion is directed to occur if it is necessary to prevent physical or emotional harm to a pregnant person, even if there is not a physical health risk that is likely to cause substantial and irreversible physical impairment of a major bodily function.

140. Some members of the organization are capable of becoming pregnant and if they became pregnant, could require an abortion that would be prohibited by S.E.A. 1. Under those circumstances, they would not be permitted to act as directed by their religious

beliefs. Members are currently altering their sexual practices, birth control practices, and family planning as a result of the law and their fear of becoming pregnant.

141. The limitations imposed by S.E.A. 1 violate and substantially burden the sincere religious beliefs and religious exercise of Hoosier Jews for Choice and its members.

* * * * * * *

142. There are numerous other persons in Indiana whose sincere religious beliefs are that they may and should obtain abortions for reasons not allowed by S.E.A. 1 and who are injured, or reasonably will be injured, by the statute.

143. Because of S.E.A. 1 and the penalties that will be imposed on physicians who violate the law, the individual plaintiffs and the members of the putative class will not be able to obtain abortions, despite the fact that they have sincere religious beliefs that direct them to obtain abortions.

144. S.E.A. 1 will substantially burden the exercise of religion by the individual plaintiffs and the putative class by preventing them from obtaining abortions that are directed by their sincere religious beliefs.

145. The defendants cannot satisfy the standards imposed on them by RFRA to justify the substantial burden imposed on the exercise of religion by the plaintiffs and the putative class.

146. The plaintiffs and the putative class are being caused irreparable harm for which there is no adequate remedy at law.

Legal claim

147. S.E.A. 1 violates Indiana's Religious Freedom Restoration Act, Indiana Code § 34-13-9-8.

Request for relief

WHEREFORE, plaintiff requests that this Court:

a. Certify this case a class action pursuant to Indiana Rules of Trial Procedure 23(B)(2), with the class as defined above.

b. Declare that S.E.A. 1 is unlawful for the reasons noted above.

c. Enter a preliminary injunction, later to be made permanent, enjoining defendants from taking any action that would prevent or otherwise interfere with the ability of the individual plaintiffs, the class members, and Hoosier Jews for Choice's members from obtaining abortions as directed by their sincere religious beliefs.

d. Award plaintiffs their costs and reasonable attorneys' fees pursuant to Indiana Code § 34-13-9-10(c).

e. Award all other proper relief.

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s/ Stevie J. Pactor
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