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12 ARIZONA SUPERIOR COURT

13 MARICOPA COUNTY

14 Eric M. Reuss, M.D., M.P.H., on behalf of
15 himself, his staff, and his patients; Paul A.
16 Isaacson, M.D., on behalf of himself, his staff,
and his patients; and Planned Parenthood
17 Arizona, Inc., on behalf of itself, its
physicians, staff, and patients,

18 Plaintiffs,

19 v.

20 State of Arizona, a body politic,

21 Defendant.

No. _____

**VERIFIED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF**

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24

1 Plaintiffs Dr. Eric M. Reuss, M.D., M.P.H.; Dr. Paul A. Isaacson, M.D.; and Planned
2 Parenthood Arizona, Inc., allege as follows:

3 INTRODUCTION

4 1. On November 5, 2024, Arizonans voted overwhelmingly in favor of adopting
5 article II, section 8.1 of the Arizona Constitution (“the Amendment”), establishing and
6 protecting “a fundamental right to abortion” in the Arizona Constitution.¹ Ariz. Const. art. II,
7 § 8.1. The Amendment became effective upon proclamation of the Governor on November 25,
8 2024.² See Ariz. Const. art. IV, pt. 1, § 5. A copy of the Amendment is attached hereto as
9 Exhibit A.

10 2. This is a challenge to A.R.S. §§ 36-2321–2326 (“the Ban” or “15-Week Ban”),
11 which violates the individual autonomy of pregnant Arizonans by denying their fundamental
12 right to end a pre-viability pregnancy after 15 weeks, as dated from the first day of a patient’s
13 last menstrual period (“LMP”), and penalizes health care providers for assisting their patients in
14 exercising that fundamental right, both in violation of article II, section 8.1 of the Arizona
15 Constitution. A copy of the Ban is attached hereto as Exhibit B.

16 3. Plaintiffs are institutional and individual health care providers who provide a broad
17 range of reproductive health care services, including abortions, in Arizona. But for the threat of
18 criminal, civil, and licensure penalties imposed by the Ban, Plaintiffs would provide pre-viability
19 abortion to Arizonans after 15 weeks, as they did before the Ban took effect in 2022.

21 ¹ Adrian Fontes, Arizona Secretary of State, *2024 General Election, Tuesday,*
22 *November 5, 2024, Unofficial Results*, <https://results.arizona.vote/#/ballotmeasure/47/0> (last
updated November 22, 2024).

23 ² Sejal Govindarao & Gabriel Sandoval, *Legal challenges loom as abortion is enshrined*
24 *in Arizona’s Constitution*, AP News (Nov. 25, 2024, 8:21 PM),
<https://apnews.com/article/arizona-election-canvass-abortion-0a899d1a78fc8e8b76bf8f75e868e249>.

1 4. As the Arizona Supreme Court has recognized, by criminalizing pre-viability
2 abortion after 15 weeks LMP, the Ban violates the fundamental right to abortion guaranteed by
3 article II, section 8.1 of the Arizona Constitution. Decision Order, *Ariz. Right to Life v. Fontes*,
4 No. CV-24-0190-AP/EL, 2024 WL 3887061, at *2 (Ariz. Aug. 20, 2024) (stating that “a
5 reasonable person would necessarily understand” that the 15-Week Ban “would be invalid”
6 under the Amendment).

7 5. The Ban radically curtails the ability of Arizonans to make their own autonomous
8 decisions about whether or not to continue a pregnancy and bear a child, depriving them of
9 agency, bodily autonomy, and the right to control their own reproductive futures in violation of
10 their rights under the Arizona Constitution. As explained below, the Ban cannot be justified by
11 any compelling state interest.

12 6. The Ban also flouts the Amendment’s prohibition on penalizing any individual or
13 entity for assisting an individual in exercising their constitutional right to abortion by imposing
14 severe criminal, civil, and licensure penalties on those who provide pre-viability abortion after
15 15 weeks LMP.

16 7. Since the Ban took effect in 2022, it has had devastating consequences across the
17 state—forcing many Arizonans to carry pregnancies to term and give birth against their will. In
18 so doing, the Ban inflicts serious, irreparable harm to the physical, psychological, and dignitary
19 well-being of pregnant Arizonans, as well as that of their families.

20 8. Absent relief from the Ban, Arizonans will continue to suffer the irreparable
21 deprivation of their fundamental rights and serious, irreparable harm to their physical,
22 psychological, and dignitary well-being. Plaintiffs have no adequate remedy at law to address
23 these harms. Accordingly, Plaintiffs respectfully request that this Court grant declaratory and
24

1 injunctive relief, declaring the Ban unconstitutional under the Arizona Constitution, and
2 preventing its enforcement.

3 **PARTIES, JURISDICTION, AND VENUE**

4 9. Plaintiff Dr. Eric M. Reuss, M.D., M.P.H., is a licensed, board-certified
5 obstetrician-gynecologist. Since 2001, he has operated a private, solo obstetrics and gynecology
6 (“OB-GYN”) practice, Scottsdale Obstetrics & Gynecology, P.C., where he provides his patients
7 with the full range of general obstetric and gynecological care, including preventive care,
8 prenatal care, labor and delivery care, and abortion care. He cares for hundreds of prenatal
9 patients each year, and provides medication and procedural abortions to his patients, either in his
10 office or at the hospital where he has privileges. Until the Ban took effect, Dr. Reuss provided
11 pre-viability abortion services after 15 weeks LMP. Dr. Reuss brings this suit on his own behalf
12 and on behalf of his staff and his patients.

13 10. Plaintiff Dr. Paul A. Isaacson, M.D., is a licensed, board-certified obstetrician-
14 gynecologist. Dr. Isaacson has been providing high-quality and safe abortion care in Arizona for
15 more than 20 years. Dr. Isaacson is the co-owner of, and one of two physicians at, Family
16 Planning Associates Medical Group, an independent licensed abortion clinic located in Phoenix
17 which offers procedural and medication abortion services. Until the Ban took effect, Dr. Isaacson
18 provided pre-viability abortion services after 15 weeks LMP. Dr. Isaacson teaches in one of the
19 abortion-training programs available to Arizona’s OB-GYN resident physicians. Dr. Isaacson
20 brings this suit on his own behalf and on behalf of his staff and his patients.

21 11. Planned Parenthood Arizona, Inc. (“PPAZ”) is a not-for-profit corporation
22 organized under the laws of Arizona and is the largest provider of reproductive health services
23 in Arizona, operating seven health centers, including licensed abortion clinics, throughout the
24 state and providing a broad range of reproductive and sexual health services. PPAZ’s services

1 right to abortion “before fetal viability unless justified by a compelling state interest that is
2 achieved by the least restrictive means.” Ariz. Const. art. II, § 8.1(A)(1).

3 18. By the terms of the Amendment, a “[c]ompelling state interest’ means a law,
4 regulation, policy or practice that meets *both* of the following:”

5 a. First, that it “is enacted or adopted for the limited purpose of improving or
6 maintaining the health of an individual seeking abortion care, consistent with
7 accepted clinical standards of practice and evidence-based medicine.”

8 b. Second, that it “[d]oes not infringe on that individual’s autonomous decision
9 making.”

10 Ariz. Const. art. II, § 8.1(B)(1)(a)–(b) (emphasis added).

11 19. Thus, the Amendment permits only those regulations of pre-viability abortion that
12 *both* respect patient autonomous decision making *and* make the abortion safer for the person
13 seeking an abortion, using the least restrictive means.

14 20. The Amendment further prohibits the State from “enact[ing], adopt[ing] or
15 enforc[ing] any law, regulation, policy or practice that . . . penalizes any individual or entity for
16 *aiding or assisting* a pregnant individual in exercising the individual’s right to abortion.” Ariz.
17 Const. art. II, § 8.1(A)(3) (emphasis added).

18 **B. Abortion in Arizona**

19 21. The decision to have an abortion is one of the most personal and intimate decisions
20 a person can make about their body, their health, and their life. That decision is informed by a
21 combination of diverse, complex, and interrelated factors that are intimately related to an
22 individual’s values, beliefs, culture, religion, health status, reproductive history, familial
23 situation, resources, economic stability, and life plans.

1 22. Approximately one in four women in this country will have had an abortion by age
2 forty-five.³

3 23. Some people have abortions because they decide it is not the right time to have a
4 child or to add to their existing families. Others have abortions because they do not wish to have
5 a child at all.

6 24. Most people who seek an abortion already have at least one child, so many
7 pregnant people and families must consider how another child will impact their ability to care
8 for the children they already have.⁴ For some, an additional child can place economic and
9 emotional strain on a family that they are simply unable to bear.

10 25. For some people, continuing a pregnancy and having a child will make it too
11 difficult for them to pursue educational or career goals and support themselves and their families
12 going forward. Indeed, nationwide, new mothers' earnings drop after they give birth, and they
13 do not fully return to their pre-pregnancy earnings paths.⁵

14 26. Others seek an abortion because continuing their pregnancies would threaten their
15 health or life, because of a diagnosed fetal medical condition, or because they conclude that
16 pregnancy, childbirth, and an additional child may exacerbate an already difficult and dangerous
17 situation with an abusive partner.

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20 ³ Rachel K. Jones & Jenna Jerman, *Population Group Abortion Rates and Lifetime
Incidence of Abortion: United States, 2008 - 2014*, 107 Am. J. Pub. Health 1904, 1907 (2017).

21 ⁴ See, e.g., Katherine Kortsmit et al., *Abortion Surveillance - United States, 2019*, CDC
22 Morbidity & Mortality Weekly Report (Nov. 26, 2021), [https://www.cdc.gov/mmwr/volumes/
70/ss/ss7009a1.htm](https://www.cdc.gov/mmwr/volumes/70/ss/ss7009a1.htm) (last visited Nov. 22, 2024) (almost 60% of women who obtained an
abortion in 2019 already had at least one child).

23 ⁵ See Danielle H. Sandler & Nicole Szembrot, *New Mothers Experience Temporary Drop
in Earnings*, U.S. Census Bureau (June 16, 2020), [https://www.census.gov/
library/stories/2020/06/
24 cost-of-motherhood-on-womens-employment-and-earnings.html](https://www.census.gov/library/stories/2020/06/cost-of-motherhood-on-womens-employment-and-earnings.html) (last
visited Nov. 22, 2024).

1 27. Forcing someone to remain pregnant against their will poses risks to their physical
2 and mental health, as well as to the stability and well-being of their family, including their
3 existing children.

4 28. Abortion is extremely safe. In fact, it is one of the safest medical interventions in
5 the United States.

6 29. Serious complications from abortion are extremely rare, occurring in fewer than
7 1% of abortions.⁶

8 30. The risk of death associated with abortion is also exceedingly low. For example,
9 it is far lower than the risks associated with other routine medical procedures, such as
10 colonoscopies and tonsillectomies.⁷

11 31. Abortion is also far safer than its only alternative—trying to continue a pregnancy
12 to term and childbirth. Every pregnancy-related complication is more common among women
13 giving birth than among those having an abortion.

14 32. Nationally, the risk of death associated with childbirth is far higher—between
15 three and ten times higher—than that associated with abortion at and after 14 weeks LMP.⁸

16 33. The starkest risk of carrying a pregnancy to term is death, and pregnancy is
17 growing more dangerous. In Arizona, women died from pregnancy-related causes at a ratio of
18 26.3 per 100,000 live births in 2018–2019, the most recent years for which the Arizona
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20

21 ⁶ See Nat'l Academies of Sciences, Eng'g, & Med., *The Safety and Quality of Abortion*
22 *Care in the United States*, 77 (2018), [https://nap.nationalacademies.org/catalog/24950/the-](https://nap.nationalacademies.org/catalog/24950/the-safety-and-quality-of-abortion-care-in-the-united-states)
23 [safety-and-quality-of-abortion-care-in-the-united-states](https://nap.nationalacademies.org/catalog/24950/the-safety-and-quality-of-abortion-care-in-the-united-states).

23 ⁷ See *id.* at 75.

24 ⁸ See Suzanne Zane et al., *Abortion-Related Mortality in the United States: 1998-2010*,
126 *Obstetrics & Gynecology* 258, 260 (2015) (reporting 2.5 deaths per 100,000 abortions at
14–17 weeks LMP, and 6.7 deaths per 100,000 abortions at 18 or more weeks LMP).

1 Department of Health Services has published data.⁹ In 2018–2019 alone, 43 women died of
2 pregnancy-related causes in Arizona.¹⁰

3 34. Pregnancy is significantly more dangerous for American Indian/Alaska Native¹¹
4 and Black or African American women in Arizona. In Arizona, American Indian/Alaska Native
5 women account for 5.8% of live births in the state, but 15.1% of pregnancy-associated deaths.
6 Black or African American women account for 5.9% of live births in the state, but 14.3% of
7 pregnancy-related deaths.¹²

8 35. Serious long-term medical and physical consequences short of death may arise
9 from carrying a pregnancy to term and giving birth, even for those who are healthy and have
10 uncomplicated pregnancies. Pregnancy stresses most major organs and involves profound and
11 long-lasting physiological changes, including on a pregnant person’s health and ability to have
12 children in the future. For someone with a medical condition caused or exacerbated by
13 pregnancy, the risks of complications are increased.

14 36. Due to structural barriers to accessing reproductive health care, the vast majority
15 of abortion patients are poor or low-income.¹³ Furthermore, approximately two-thirds of abortion
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19 ⁹ See Ariz. Dept. of Health Servs., *Maternal Mortality in Arizona, 2018-2019*, 19 (Jan.
20 2024), <https://www.azdhs.gov/documents/prevention/womens-childrens-health/reports-fact-sheets/mm-2018-2019.pdf>; see also *id.* at 11 (women died from pregnancy-related causes in Arizona at a ratio of 18.3 per 100,000 live births in 2016-2017).

21 ¹⁰ *Id.* at 15.

22 ¹¹ Plaintiffs use the term “American Indian/Alaska Native” here because that is the term
used in Arizona Department of Health Services statistics.

23 ¹² *Id.* at 28.

24 ¹³ Jenna Jerman et al., *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008*, 7 (May 2016), https://www.gutmacher.org/sites/default/files/report_pdf/characteristics-us-abortion-patients-2014.pdf.

1 patients in Arizona are American Indian/Alaska Native and/or people of color, though these
2 populations account for approximately half of Arizona’s total population.¹⁴

3 37. Many patients who seek abortion care after 15 weeks of pregnancy do so because
4 they were unable to access abortion earlier in pregnancy. It can be extremely difficult for many
5 patients to raise the necessary funds for an abortion and related expenses (such as transportation
6 and childcare) and obtain time off work, secure childcare, and arrange transportation to and from
7 their appointments.

8 38. The Ban therefore disproportionately impacts Indigenous people, people of color,
9 people with low incomes, young people, and people living in rural areas—that is, those who
10 already face barriers to accessing health care.

11 **C. The 15-Week Ban**

12 39. Until 2022, pre-viability abortion had been legal in Arizona for nearly a half
13 century.

14 40. In 2022, the Arizona Legislature passed S.B. 1164, which criminalized all abortion
15 care after 15 weeks LMP, except in medical emergencies, as narrowly defined by the Ban.¹⁵ S.B.
16 1164, 55th Leg., 2nd Reg. Sess. (Ariz. 2022), codified at A.R.S. § 36-2322. The Ban took effect
17 on September 25, 2022.

18 41. The Ban prohibits abortions at a pre-viability stage of pregnancy.

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20 ¹⁴ Ariz. Dept. of Health Servs., *Abortions in Arizona: 2022 Abortion Report*, 8 (Dec. 5,
21 2023), [https://www.azdhs.gov/documents/preparedness/public-health-statistics/abortions/2022-
arizona-abortion-report.pdf](https://www.azdhs.gov/documents/preparedness/public-health-statistics/abortions/2022-arizona-abortion-report.pdf); U.S. Census Bureau, *QuickFacts: Arizona*,
22 <https://www.census.gov/quickfacts/AZ> (last visited Nov. 22, 2024).

23 ¹⁵ Under the Ban, an abortion may be provided after 15 weeks LMP in cases of “medical
24 emergency,” which is defined as “a condition that, on the basis of the physician’s good faith
clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate
the immediate abortion of her pregnancy to avert her death or for which a delay will create
serious risk of substantial and irreversible impairment of a major bodily function.” A.R.S. §§ 36-
2321(7), 36-2322.

1 42. Viability is an individualized determination for each pregnancy. As defined in the
2 Arizona Constitution, viability “means the point in pregnancy when, in the good faith judgment
3 of a treating health care professional and based on the particular facts of the case, there is a
4 significant likelihood of the fetus’s sustained survival outside the uterus without the application
5 of extraordinary medical measures.” Ariz. Const. art. II, § 8.1(B)(2).

6 43. As the State has previously conceded, in a typical pregnancy, viability does not
7 occur until approximately 23 or 24 weeks LMP, at the earliest, and no fetus is viable at 15 weeks
8 LMP.¹⁶ Some fetuses do not become viable until later in pregnancy, and some fetuses never
9 become viable.

10 44. A “physician who intentionally or knowingly violates the prohibition in § 36-2322,
11 subsection B is guilty of a class 6 felony.” A.R.S. § 36-2324. The Ban also imposes severe civil
12 and licensing penalties on physicians, including civil fines and license revocation. A.R.S. § 36-
13 2325.

14 45. The Ban expressly delegates enforcement authority to the Attorney General, who
15 may bring enforcement action on behalf of the Director of the Arizona Department of Health
16 Services, the Arizona Medical Board, and the Arizona Board of Osteopathic Examiners in
17 Medicine and Surgery. A.R.S. § 36-2326.

18 46. Moreover, county attorneys are authorized to “conduct all prosecutions for public
19 offenses,” A.R.S. § 11-532(A)(1), subject to the Attorney General’s supervisory authority to
20 enforce the laws of Arizona, *see* A.R.S. § 41-193(A)(4) (the attorney general “shall . . . [e]xercise
21

22 ¹⁶ *Isaacson v. Horne*, 716 F.3d 1213, 1225 (9th Cir. 2013) (noting that it was “undisputed
23 that viability usually occurs between twenty-three and twenty-four weeks gestation”); *id.* (“The
24 parties here agree that no fetus is viable at twenty weeks gestational age.”); *see also Dobbs v.*
Jackson Women’s Health Org., 597 U.S. 215, 230 (2022) (recognizing that a law banning
abortion after 15 weeks LMP bans abortion weeks before viability).

1 supervisory powers over county attorneys of the several counties”); *Crosby-Garbotz v. Fell in*
2 *and for Cnty. of Pima*, 246 Ariz. 54, 60 ¶ 24 (2019) (holding the same).

3 47. In addition, the Arizona Medical Board is authorized to initiate independent
4 investigations, separate from any criminal process, to determine if a physician has engaged in
5 unprofessional conduct, which includes “[v]iolating any federal or state laws, rules or regulations
6 applicable to the practice of medicine” and “[c]ommitting a felony,” A.R.S. §§ 32-
7 1401(27)(a)(d), 32-1403(A)(2), 32-1451(A), and to discipline licensed physicians based on their
8 findings, which can include suspension or revocation of a medical license, public censure, and
9 civil penalties of at least \$1,000 and up to \$10,000 for each violation found, A.R.S. §§ 32-
10 1403(A)(5), 32-1403.01(A), 32-1451(D)–(E), (I), and (K).

11 48. The Director of the Arizona Department of Health Services is independently
12 authorized to suspend or revoke the license of any abortion clinic that fails to “adher[e] to” “any
13 [] law or rule concerning abortion.” *See* A.R.S. § 36-449.02.

14 49. The Ban denies, restricts, and interferes with Arizonans’ fundamental right to pre-
15 viability abortion after 15 weeks LMP.

16 50. The Ban penalizes Arizona health care providers who assist their patients in
17 exercising their constitutionally protected right to pre-viability abortion after 15 weeks LMP,
18 forcing them to stop providing the critical care their patients seek in accordance with their best
19 medical judgment under threat of criminal prosecution, severe civil sanctions, and revocation of
20 their medical licenses.

21 51. By prohibiting pre-viability abortion after 15 weeks LMP, the Ban by definition
22 infringes on an individual’s autonomous decision making.

23 52. The Ban does not improve or maintain the health of an individual seeking abortion
24 care.

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Inc.*

**Pro hac vice forthcoming*

1 **Verification**

2 I, Eric M. Reuss, M.D., M.P.H., state as follows:

3 I have read the foregoing Verified Complaint for Injunctive and Declaratory Relief, and
4 I am acquainted with the facts stated therein. To the best of my knowledge, the facts set forth in
5 the foregoing Complaint are true and accurate.

6 I declare under penalty of perjury that the foregoing is true and correct.

7
8 Executed this 23rd day of November, 2024.

9
10 Handwritten signature of Eric M. Reuss, M.D. in cursive script.

11
12 _____
Eric M. Reuss, M.D., M.P.H.

1 **Verification**

2 I, Paul A. Isaacson, M.D., state as follows:

3 I have read the foregoing Verified Complaint for Injunctive and Declaratory Relief, and
4 I am acquainted with the facts stated therein. To the best of my knowledge, the facts set forth in
5 the foregoing Complaint are true and accurate.

6 I declare under penalty of perjury that the foregoing is true and correct.

7
8 Executed this 25th day of NOVEMBER, 2024.

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12 _____
13 Paul A. Isaacson, M.D.
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1 **Verification**

2 I, April Donovan, state as follows:

3 I have read the foregoing Verified Complaint for Injunctive and Declaratory Relief, and
4 I am acquainted with the facts stated therein. To the best of my knowledge, the facts set forth in
5 the foregoing Complaint are true and accurate.

6 I declare under penalty of perjury that the foregoing is true and correct.

7
8 Executed this 21 day of November, 2024.

9
10 
11 _____
12 April Donovan, Interim President and Chief
13 Executive Officer, Chief Operating Officer,
14 for Planned Parenthood Arizona, Inc.
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