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RELEASE: Gov. Reynolds and legislative leaders announce legal action to protect life

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OFFICE OF THE GOVERNOR

Governor Kim Reynolds ★ Lt. Governor Adam Gregg

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Gov. Reynolds and legislative leaders announce legal action to protect life

DES MOINES -- Today, Gov. Reynolds and legislative leaders announced two legal actions following the U.S. Supreme Court's decision in Dobbs:

1. Gov. Reynolds will urge the Iowa Supreme Court to rehear *Planned Parenthood v. Reynolds* (known as PPH IV), in light of the U.S. Supreme Court's decision in Dobbs.
2. Gov. Reynolds will request that the Iowa courts lift the injunction against enforcement of Iowa's fetal heartbeat law.

While this litigation moves forward to protect the unborn, Iowa's ban on abortions after 20 weeks is still in effect. And, through actions of the legislature and Gov. Reynolds, Iowa continues to provide support for mothers and their children. Through the new MOMS legislation (More Options for Maternal Support SF2354), a statewide program to promote healthy pregnancies and childbirth, the State will provide needed supports, like parenting education, nutritional services, and material items such as diapers and car seats, for women who find themselves in an unplanned pregnancy.

And through the implementation of Family First, the State is also equipping at-risk families with the tools they need to be successful and allowing safe options for a path to adoption through expanded Safe Haven laws. Gov. Reynolds has also supported expanded contraception and family planning services through the State's Title X program, better ensuring that low-income Iowans have access to maternal care.

"Now is the time for us to stand up and continue the fight to protect the unborn," said Gov.

Reynolds. “The Supreme Court’s historic decision reaffirms that states have the right to protect the innocent and defenseless unborn—and now it’s time for our state to do just that. As governor, I will do whatever it takes to defend the most important freedom there is: the right to life.”

“Since coming into the majority, Senate Republicans have led on the issue of life,” said Senate Majority Leader Jack Whitver. “In 2018 the Heartbeat Bill created significant momentum across the country for conservative states to initiate legislation to protect the unborn. One of those state laws led to the historic Dobbs decision by the US Supreme Court last week, opening the path for the 2018 law to be implemented in Iowa. I support the decision to put these laws back in front of the Court to protect life in Iowa.”

“For far too long, flawed Court rulings at the state and federal levels have blocked many of our attempts to listen to Iowans and expand pro-life protections,” said Speaker Pat Grassley. “Iowa House Republicans’ goal is to protect the lives of the unborn. That’s why I support the Governor’s decision on these legal actions as the best path forward to protect innocent life.”

Attorney General Tom Miller has also stated that he will be withdrawing from representing the State in these matters. Gov. Reynolds is retaining Alliance Defending Freedom and Iowa attorney Alan Ostergren, President and Chief Counsel of the Kirkwood Institute, to represent the State at no cost to Iowa taxpayers.

With the two landmark abortion rulings in the past two weeks—one from the Iowa Supreme Court and one from the U.S. Supreme Court—the status of abortion law has shifted dramatically in this Country and in Iowa. As a result, and because it is still evolving, we provide the following background information:

The Iowa Constitution makes no mention of abortion, but in 2018—161 years after the ratification of Iowa’s current Constitution—a majority of the Iowa Supreme Court claimed there was a “fundamental right” to abortion under the Iowa Constitution, under which virtually every law that the legislature passes to protect the life of an unborn child would be deemed unconstitutional under the so-called “strict scrutiny” standard.

That decision, which shut the door on the democratic process, was broader in its protection of abortion than the US Supreme Court’s decisions *Roe v. Wade* and *Planned Parenthood v. Casey*, and it placed the Iowa Supreme Court’s abortion jurisprudence to the left of almost every state in the nation.

Thankfully, on June 17, the Iowa Supreme Court corrected that grave error, overruling the 2018 decision. A majority of the justices firmly rejected “the proposition that there is a fundamental right to an abortion in Iowa’s Constitution subjecting abortion regulation to strict scrutiny,” saying that the 2018 decision was a “one-sided” ruling that “lacks textual and historical support.”

Nevertheless, unlike the U.S. Supreme Court in *Dobbs*, the Iowa Supreme Court did not

definitively decide what standard, if any, should be applied to abortion restrictions under the Iowa Constitution. A plurality of justices invited the parties to litigate that issue further, and in the meantime they declared that the “undue burden” standard from the U.S. Supreme Court’s decision in *Planned Parenthood v. Casey* would govern Iowa law “for now.”

It is under that undue-burden standard that the Iowa Supreme Court struck down Iowa’s prohibition on telemedicine abortion in 2015. And it is under that standard that other courts have struck down laws that prohibit abortion before viability, like Iowa’s heartbeat law.

Thus, while the Iowa Supreme Court’s decision was a step in the right direction, it left more work to be done in Iowa’s courts to fully protect the life of the unborn, as the U.S. Supreme Court ruled in *Dobbs* that states have an important interest in doing. Gov. Reynolds fully intends to do that work.

Therefore, Gov. Reynolds is announcing today two legal actions:

1. Gov. Reynolds will urge the Iowa Supreme Court to rehear *Planned Parenthood v. Reynolds* (known as PPH IV) in light of the U.S. Supreme Court’s decision in *Dobbs*.

When the Iowa Supreme Court released its decision on June 17 in PPH IV, the U.S. Supreme Court had not issued *Dobbs*. But Justice Mansfield recognized that *Dobbs* would be released soon and acknowledged that the U.S. Supreme Court’s decision “could alter the federal constitutional landscape established by *Roe* and *Casey*” and “provide insights that [the Iowa Supreme Court is] currently lacking.”

The U.S. Supreme Court provided those insights in *Dobbs* and thus the Iowa Supreme Court may now re-decide PPH IV with the wisdom of that ruling. Most significantly, the U.S. Supreme Court rejected the “undue burden” standard as an “arbitrary” test that has “caused confusion and disagreement” among courts trying to apply it. In its place, the Court adopted a “rational basis” test under which a law regulating abortion “must be sustained if there is a rational basis on which the legislature could have thought that it would serve legitimate state interests.”

The Governor will be filing for rehearing by this Friday’s deadline.

2. Gov. Reynolds will request that the Iowa courts lift the injunction against enforcement of Iowa’s fetal heartbeat law.

In 2018, the legislature passed and Gov. Reynolds signed a law outlawing abortion at six weeks, when the baby’s heartbeat can first be detected. A Polk County district court judge enjoined that law, prohibiting Iowa officials from enforcing it, based upon the Iowa Supreme Court’s 2018 ruling in PPH II where the Court erroneously created a fundamental right to abortion. Because the Iowa Supreme Court has now overruled that 2018 ruling and rejected the “strict scrutiny” standard it adopted. Gov. Reynolds will ask the district court to lift the injunction against the heartbeat law.

While this litigation moves forward to protect the unborn, Iowa's ban on abortions after 20 weeks is still in effect.

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