

THE SUPREME COURT OF FLORIDA

PLANNED PARENTHOOD OF SOUTHWEST
& CENTRAL FLORIDA, ET AL.,
Petitioners,

v.

CASE NO.: SC22-1050
L.T. NOS.: 1D22-2034;
372022CA000912XXXXXX
CONSOLIDATED: SC22-1127

STATE OF FLORIDA, ET AL.,
Respondents.

**ON DISCRETIONARY REVIEW FROM THE
FLORIDA FIRST DISTRICT COURT OF APPEAL**

***AMICUS BRIEF OF AMICI CURIAE* NATIONAL COUNCIL OF
JEWISH WOMEN; RELIGIOUS COALITION FOR
REPRODUCTIVE CHOICE; CATHOLICS FOR CHOICE;
METROPOLITAN COMMUNITY CHURCHES; NATIONAL
COUNCIL OF JEWISH WOMEN, GREATER MIAMI SECTION;
NATIONAL COUNCIL OF JEWISH WOMEN, PALM BEACH
SECTION; NATIONAL COUNCIL OF JEWISH WOMEN,
SARASOTA MANATEE SECTION; NATIONAL COUNCIL OF
JEWISH WOMEN, KENDALL SECTION; NATIONAL COUNCIL
OF JEWISH WOMEN, VALENCIA SHORES SECTION;
RECONSTRUCTIONIST RABBINICAL ASSOCIATION;
WOMEN'S RABBINIC NETWORK; MOVING TRADITIONS;
AVODAH; BEND THE ARC: A JEWISH PARTNERSHIP FOR
JUSTICE; JEWISH COUNCIL FOR PUBLIC AFFAIRS;
JEWISH ORTHODOX FEMINIST ALLIANCE; RABBINICAL
ASSEMBLY; UNION FOR REFORM JUDAISM; CENTRAL
CONFERENCE OF AMERICAN RABBIS; MEN OF REFORM
JUDAISM; WOMEN OF REFORM JUDAISM; SOCIETY FOR
HUMANISTIC JUDAISM; MUSLIM WOMEN'S
ORGANIZATION; HINDUS FOR HUMAN RIGHTS; SADHANA:**

**COALITION OF PROGRESSIVE HINDUS; WOMEN'S
ALLIANCE FOR THEOLOGY; ETHICS, AND RITUAL
(WATER); SACRED (SPIRITUAL ALLIANCE OF
COMMUNITIES FOR REPRODUCTIVE DIGNITY); FAITH IN
PUBLIC LIFE; AND FLORIDA INTERFAITH COALITION FOR
REPRODUCTIVE HEALTH AND JUSTICE, IN SUPPORT OF
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STATEMENT OF IDENTITY AND INTEREST OF AMICI

Amici curiae are faith-based organizations representing a diverse array of religious traditions that affirm the authority of women to terminate a pregnancy in accordance with their conscience, faith, and values, consistent with the rights to privacy, self-determination, and religious freedom protected by the Florida Constitution.¹

¹ *Amici* are the following organizations: National Council of Jewish Women; Religious Coalition for Reproductive Choice; Catholics for Choice; Metropolitan Community Churches; National Council of Jewish Women, Greater Miami Section; National Council of Jewish Women, Palm Beach Section; National Council of Jewish Women, Sarasota Manatee Section; National Council of Jewish Women, Kendall Section; National Council of Jewish Women, Valencia Shores Section; Reconstructionist Rabbinical Association; Women's Rabbinic Network; Moving Traditions; Avodah; Bend the Arc: A Jewish Partnership for Justice; Jewish Council for Public Affairs; Jewish Orthodox Feminist Alliance; Union for Reform Judaism; Central Conference of American Rabbis; Men of Reform Judaism; Women of Reform Judaism; Rabbinical Assembly; Society for Humanistic Judaism; Muslim Women's Organization; Hindus for Human Rights; Sadhana: Coalition of Progressive Hindus; Women's Alliance for Theology, Ethics, and Ritual (WATER); SACReD (Spiritual Alliance of Communities for Reproductive Dignity); Faith in Public Life; and Florida Interfaith Coalition for Reproductive Health and Justice.

SUMMARY OF ARGUMENT

With only extremely narrow exceptions, Florida’s House Bill 5, the Reducing Fetal and Infant Mortality Act, Ch. 2022-69, §§ 3–4, Laws of Fla. (“HB 5” or the “Act”) prohibits any woman from obtaining an abortion 15 weeks after “gestation,” which is defined as the first day of her last menstrual period (“LMP”). §§ 390.011(7), 390.0111(1), Fla. Stat. The Act also criminalizes “willful[] perform[ance]” of and “active[] participat[ion]” in an abortion in violation of this provision. *Id.* §§ 390.0111(10)(a), 775.082(8)(e), 775.083(1)(c).

Proponents of HB 5, including the Governor of this State, justified the statute as serving to “protect[]” the “sacred gift” of “life,”² which in the drafters’ religious view, begins at the moment when “a woman becomes pregnant.”³ In the course of this

² GOV. RON DESANTIS, *Governor Ron DeSantis Signs Bill to Protect the Lives of Florida’s Most Vulnerable*, (April 14, 2022), <https://www.flgov.com/2022/04/14/governor-ron-desantis-signs-bill-to-protect-the-lives-of-floridas-most-vulnerable>.

³ FLA. H.R., H. FLOOR SESS., Feb. 16, 2022 at 9:18:53–59 (statement of Rep. Erin Grall), <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=7927>.

litigation, the State has defended the statute based on its purported interest in “protect[ing] children in utero.” *E.g.*, Supreme Court Record (“R.”) at 510.

HB 5 is premised on a particular religious view on when a human life begins and on the propriety of terminating a pregnancy. However, religious traditions espouse diverse views on these questions. While some religious traditions embrace the view that life begins at the moment of conception, numerous other traditions posit that life begins at some point during pregnancy or even after birth. Still others expressly decline to identify a precise moment when life begins.

Consistent with this diversity, numerous religions teach that the decision to terminate a pregnancy is a woman’s moral prerogative, and that abortion is permissible or even required under certain circumstances. These religions recognize and support the moral right of each woman to make her own decisions about her pregnancy in accordance with her faith, beliefs, and conscience.

While the values underlying HB 5 are consonant with certain religious traditions, they contradict the values of other religious

traditions, including those of *amici*. HB 5 imposes a particular view on the beginning of human life and the propriety of terminating a pregnancy on all women in Florida, including women whose sincerely held religious beliefs are at odds with that view. HB 5 prohibits those women from following the tenets of their faith when faced with a pregnancy they cannot or believe they should not carry to term. It puts physicians at risk of criminal penalties for providing care that is consistent with their patients' religious beliefs. Moreover, it bars religious leaders from advising congregants of religious teachings that would permit, or even require, abortion in certain circumstances.

HB 5 is of significant concern to *amici* because it fails to account for the diversity of views among religious traditions on when life begins, the moral implications of terminating a pregnancy, and who has the power to decide whether to terminate a pregnancy. HB 5 deprives Florida women of the right to make these deeply personal and private decisions according to their own faiths and beliefs. For these and the reasons set forth below, *amici* urge the Court to preserve a woman's right to terminate her pregnancy in accordance with her own conscience or religious

beliefs, and to reject HB 5’s encroachment on privacy and religious freedom.

ARGUMENT

The U.S. Supreme Court “has made it clear that the states, not the federal government, are the final guarantors of personal privacy.” *In re T.W.*, 551 So. 2d 1186, 1191 (Fla. 1989) (citing *Katz v. United States*, 389 U.S. 347, 350–51 (1967)). In keeping with that principle, this State’s Constitution “expressly and succinctly provides for a strong right of privacy not found in the United States Constitution.” *Winfield v. Division of Pari–Mutuel Wagering*, 477 So. 2d 544, 548 (Fla. 1985). Florida’s Constitution not only “guarantee[s] an independent right to privacy,” *T.W.*, 551 So. 2d at 1190–91—it does so in “intentionally . . . strong terms.” *Id.* Thus, the Florida Constitution expressly states that “[e]very natural person has the right to be let alone and free from governmental intrusion into the person’s private life.” Art. I, § 23, Fla. Const. The protection for privacy in Florida’s Constitution is “much broader in scope than that of the Federal Constitution.” *Winfield*, 477 So. 2d at 548.

The privacy right in this State’s Constitution safeguards a woman’s freedom to make the deeply personal decision of whether to terminate a pregnancy consistent with her own values and beliefs, including her religious beliefs. As this Court has long recognized, “[t]he Florida Constitution embodies the principle that [f]ew decisions are more personal and intimate, more properly private, or more basic to individual dignity and autonomy, than a woman’s decision . . . whether to end her pregnancy.” *N. Fla. Women’s Health & Counseling Servs., Inc. v. State*, 866 So. 2d 612, 621 (Fla. 2003) (citation and internal quotation marks omitted); *see also T.W.*, 551 So. 2d at 1192 (“We can conceive of few more personal or private decisions” than “a woman’s decision of whether or not to continue her pregnancy.”) (citation omitted) (recognizing a state constitutional right to abortion); *cf. Pub. Health Tr. of Dade Cty. v. Wons*, 541 So. 2d 96, 98 (Fla. 1989) (“Surely nothing . . . is more private or more sacred than one’s religion or view of life, and here the courts, quite properly, have given great deference to the individual’s right to make decisions vitally affecting his private life according to his own conscience.”).

HB 5's ban on almost all abortions 15 weeks after the first day of a woman's LMP violates the privacy provision in Florida's Constitution. It is a "governmental intrusion," Art. I, § 23, Fla. Const., into one of the most "personal and intimate" decisions that anyone can ever make, *N. Fla. Women's Health & Counseling Servs.*, 866 So. 2d at 621 (internal quotation marks and citation omitted), *i.e.*, "a woman's decision of whether or not to continue her pregnancy," *T.W.*, 551 So. 2d at 1192, consistent with her own religious values and beliefs.

Moreover, HB 5 is premised on a particular set of religious views on the beginning of human life and the ethics of terminating a pregnancy, which contradict the teachings of many other religious traditions—including those of *amici*. By imposing one set of religious beliefs on all Floridians, and by prohibiting Florida women from following their conscience and faiths in making such decisions, HB 5 "intru[des] into [women's] private li[ves]," Art. I, § 23, Fla. Const., in violation of the privacy rights expressly guaranteed by the Florida Constitution. Consistent with the privacy rights in this State's Constitution, women should be able

to follow their own conscience and faith in making such deeply personal decisions.

I. RELIGIOUS TRADITIONS ESPOUSE DIVERSE VIEWS ON WHEN LIFE BEGINS

Different faith and religious traditions take diverse views on when a human life begins. As the United Church of Christ aptly put it, “there are many religious and theological perspectives on when life and personhood begin.”⁴ HB 5 adopts one particular view, at the expense of all others.

HB 5’s prohibition of abortions 15 weeks after the first day of a woman’s LMP, with only narrow exceptions, is premised on a particular Christian and Catholic belief—not shared by all Catholics or by all Christian traditions, let alone adherents of other religions—that life begins at conception. Representative Erin Grall, HB 5’s author, characterized HB 5 as “a bill about life,”⁵ and

⁴ See United Church of Christ, *Statement on Reproductive Health and Justice* (Undated), https://d3n8a8pro7vhmx.cloudfront.net/unitedchurchofchrist/legacy_url/455/reproductive-health-and-justice.pdf.

⁵ FLA. H.R., H. FLOOR SESS, Feb. 16, 2022 at 9:18:53–59, 9:20:15–22 (statement of Rep. Erin Grall).

stated that “once a woman becomes pregnant, two uniquely independent human beings exist.”⁶

Other proponents of HB 5 expressed similar views. For example, during the floor debate, Representative Tommy Gregory described the Act as protecting “the lives of . . . unborn babies.”⁷ Governor DeSantis—who signed the bill at Nación de Fe church in Kissimmee⁸—stated that HB 5 “represents the most significant protections for life in the state’s modern history.”⁹

Similarly, in the course of this litigation, the State has argued that HB 5 protects “children in utero,” who are “living beings.” R. at 510-12. At trial, Maureen L. Condic, the State’s expert, defended HB 5 by opining that “the life of an individual human being begins at the instant of sperm-egg fusion.” R. at 1115.

⁶ *Id.* at 9:20:01–08.

⁷ *Id.* at 6:35:12–55 (statement of Rep. Tommy Gregory).

⁸ Sam Sachs, *Gov. DeSantis Signs 15-Week Abortion Ban Into Law*, WFLA (April 12, 2022), <https://www.wfla.com/news/politics/gov-desantis-to-speak-at-florida-church>.

⁹ GOV. RON DESANTIS, *Governor Ron DeSantis Signs Bill to Protect the Lives of Florida’s Most Vulnerable* (April 14, 2022), <https://www.flgov.com/2022/04/14/governor-ron-desantis-signs-bill-to-protect-the-lives-of-floridas-most-vulnerable>.

Not all Christians, or adherents of other faiths, share the view reflected in HB 5. For example, the Presbyterian Church, the Lutheran Church, and the United Church of Christ have all declined to take a position on when human life begins, noting the diverse range of religious views on this question.¹⁰ The Church of Jesus Christ of Latter-Day Saints similarly has no official position on when a fetus becomes a person.¹¹

Catholic teachings on this question also vary.¹² Throughout history, Catholic scholars and the Catholic Church have espoused

¹⁰ See Presbyterian Church (U.S.A.), *Abortion/Reproductive Choice Issues* (2006), <https://www.presbyterianmission.org/what-we-believe/social-issues/abortion-issues/>; Evangelical Lutheran Church in America, *Social Statement on Abortion* at 1, 3 n.2 (1991), <http://download.elca.org/ELCA%20Resource%20Repository/AbortionSS.pdf>; United Church of Christ, *Statement on Reproductive Health and Justice*, *supra* note 3.

¹¹ Peggy Fletcher-Stack, *Surprise! The LDS Church Can Be Seen as More 'Pro-Choice' Than 'Pro-Life' on Abortion. Here's Why*, SALT LAKE TRIB. (June 1, 2019), <https://www.sltrib.com/religion/2019/06/01/surprise-lds-church-can/>; see also Park Ridge Ctr., *The Latter-day Saints Tradition: Religious Beliefs and Healthcare Decisions* at 10 (Deborah Abbott ed., 2002), https://www.advocatehealth.com/assets/documents/faith/latter-day_saints_tradition.pdf.

¹² See Vatican Sacred Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, at n.19 (Nov. 18, 1974), https://www.vatican.va/holy_father/francesco/encyclicals/encyclicals_2012/documents/hf_hf-cc-1974_11_18_deklaration-abortio.html.

a variety of views—that “ensoulment” occurs 40 to 80 days after conception¹³; at the time of quickening, *i.e.*, when the fetus first moves inside the womb, usually within around 18 weeks of gestation¹⁴; at or near the time of childbirth¹⁵; or at some moment during fetal development that is impossible to pinpoint.¹⁶

[//www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19741118_declaration-abortion_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19741118_declaration-abortion_en.html).

¹³ See Anne Stensvold, *A History of Pregnancy in Christianity: From Original Sin to Contemporary Abortion Debates* 45–46 (2015).

¹⁴ *Id.* at 70; Frank K. Flinn, *Encyclopedia of Catholicism* 4–5 (2007); Elissa Strauss, *When Does Life Begin? It’s Not So Simple*, SLATE (Apr. 4, 2017), <https://slate.com/human-interest/2017/04/when-does-life-begin-outside-the-christian-right-the-answer-is-over-time.html> (hereinafter “Strauss, *When Does Life Begin?*”).

¹⁵ St. Thomas Aquinas, *Summa Contra Gentiles* 2.88–89; St. Thomas Aquinas, *Summa Theologiae* 1.118; see also Garry Wills, *Abortion Isn’t a Religious Issue*, L.A. TIMES (Nov. 4, 2007), <https://www.latimes.com/la-op-wills4nov04-story.html>.

¹⁶ Strauss, *When Does Life Begin?*, *supra* note 14 (“[T]he Catholic Church has never dogmatically defined when life begins,” but rather, “there is a recognition that there is unfolding developmental potential in embryo, from unification between sperm and egg to birth. There is no defined moment of ensoulment.” (quoting Daniel Sulmasy, a Catholic bioethicist and director of the Program on Medicine and Religion at the University of Chicago)); see also *Roe v. Wade*, 410 U.S. 113, 133 n.22 (1973) (citing Augustine, *De Origine Animae* 4.4, discussing history of theological debates over the beginning of human life), *overruled by Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (2022).

Other religious traditions espouse different views on when life begins. In Judaism, the creation of a human life is generally viewed as something that happens gradually over time.¹⁷ Jewish “tradition holds that we enter life in stages and leave in stages.”¹⁸ The Talmud teaches that the fetus is “mere fluid” up to the point of 40 days of gestation, see Babylonian Talmud Yevamot 69b,¹⁹ and “[f]ollowing this period, the fetus is considered a physical part of the pregnant individual’s body,” see Talmud Gittin 23b, “not yet having a life of its own or independent rights.”²⁰ It is not until the moment of birth when the head has emerged and the baby has

¹⁷ See Strauss, *When Does Life Begin?*, *supra* note 14.

¹⁸ See *id.* (quoting Rabbi Elliot Dorff, bioethicist and professor of Jewish theology at the American Jewish University in California).

¹⁹ Rabbi Danya Ruttenberg, *The Torah of Abortion Justice* at 3, <https://www.sefaria.org/sheets/234926.8?lang=bi> (hereinafter “*Torah of Abortion Justice*”). Note that this is understood as 40 days from *conception*, or approximately 7–8 weeks’ gestation. *Id.*; see also Nat’l Council of Jewish Women, *Abortion and Jewish Values Toolkit* at 16 (2020), https://www.ncjw.org/wp-content/uploads/2020/05/NCJW_ReproductiveGuide_Final.pdf (hereinafter, “NCJW, *Abortion and Jewish Values*”).

²⁰ NCJW, *Abortion and Jewish Values*, *supra* note 19 at 16; see also Ruttenberg, *Torah of Abortion Justice*, *supra* note 19, at 4.

breathed outside air that it is considered a living being, see Mishnah Ohalot 7:6.²¹

Other faiths similarly vary in their views on when life begins. For example, “[a]mong Muslims, there is no universally agreed-upon moment when a fetus becomes a person.”²² The predominant Islamic view is that a fetus acquires personhood 120 days from conception, *i.e.*, at approximately 19–20 weeks of gestation.²³

HB 5 contradicts and overlooks this range of religious views on when human life begins. HB 5 instead adopts a view endorsed by some, but certainly not all religious traditions—that life begins at conception. Forcing Floridians to carry pregnancies to term in contravention of their own sincerely held religious beliefs violates fundamental liberty interests—including freedom from

²¹ See NCJW, *Abortion and Jewish Values*, *supra* note 19, at 16; Strauss, *When Does Life Begin?*, *supra* note 14; Ruttenberg, *Torah of Abortion Justice*, *supra* note 19, at 6 (quotation omitted).

²² Strauss, *When Does Life Begin?*, *supra* note 14.

²³ Mark Cherry, *Religious Perspective on Bioethics* 196–97 (2004); Abdulaziz Sachedina, *Islamic Biomedical Ethics: Principles and Applications* 134–35, 140–41 (2009); Dariusch Atighetchi, *Islamic Bioethics: Problems and Perspectives* 94 (2007); see also Strauss, *When Does Life Begin?*, *supra* note 14.

“governmental intrusion into . . . private life”—that are guaranteed by the Florida Constitution. Art. I, § 23, Fla. Const.

II. RELIGIOUS TRADITIONS AFFIRM WOMEN’S MORAL RIGHT TO DECIDE WHETHER AND UNDER WHAT CIRCUMSTANCES TO TERMINATE A PREGNANCY

Many religious traditions recognize women’s moral right to make their own decisions about pregnancy in accordance with their conscience and faiths.

Numerous Protestant denominations expressly affirm that every woman is a moral agent with both the capacity and ultimate right to determine whether an abortion is justified. For instance, according to the United Church of Christ, “[e]very woman must have the freedom of choice to follow her personal religious and moral convictions concerning the completion or termination of her pregnancy.”²⁴ Similarly, the Presbyterian Church asserts that “[h]umans are empowered by the spirit prayerfully to make significant moral choices, including the choice to continue or end

²⁴ Thirteenth General Synod of the United Church of Christ, *Resolution on Freedom of Choice*, 81-GS-60, at 10 (1981), <https://www.uccfiles.com/pdf/GS-Resolutions-Freedom-of-Choice.pdf>.

a pregnancy.”²⁵ The Episcopal Church of America proclaims that the “decision to terminate a pregnancy . . . properly belongs to the couple, in consultation with their physician and the Church.”²⁶ The Disciples of Christ have resolved that “the place of decision making on abortion [is] not with public legislators, but with the individuals involved with the pregnancy . . . on the basis of ethical and moral grounds.”²⁷ And the Unitarian Universalist Association asserts that “the personal right to choose in regard to contraception and abortion” is an important aspect of the “right of individual

²⁵ Minutes of the 217th General Assembly of the Presbyterian Church (U.S.A.) at 905 (2006).

²⁶ Episcopal Church, *Standing Commission on Human Affairs and Health*, Resolution #A087 at 153 (1988), https://www.episcopalarchives.org/e-archives/gc_reports/reports/1988/bb_1988-R016.pdf.

²⁷ Freedom of Choice Act of 1989: Hearing on S. 1912 Before the S. Comm. on Labor and Human Resources, 101st Cong. 237 (1990) (testimony of John O. Humbert, General Minister and President, Christian Church (Disciples of Christ) in the USA and Canada) (citing General Assembly Resolutions of the Christian Church (Disciples of Christ) Resolution 8954 (1989) and 7524 (1975)).

conscience” and the “inherent worth and dignity of every person.”²⁸

Many other denominations embrace similar views.²⁹

In addition, numerous Protestant denominations teach that the decision to terminate a pregnancy can be morally permissible and consistent with Christian ethics, and that the law should not preclude women from making the ultimate determination to obtain an abortion in accordance with their faiths. Indeed, the Presbyterian Church affirms that “[t]he considered decision of a woman to terminate a pregnancy can be morally acceptable,” and

²⁸ Unitarian Universalist Ass’n, *General Resolution on the Right to Choose* (1987), <https://www.uua.org/action/statements/right-choose>.

²⁹ See, e.g., Am. Baptist Ass’n, *Resolution Concerning Abortion and Ministry in the Local Church* (1987), <http://www.abc-usa.org/wp-content/uploads/2012/06/Abortion-and-Ministry-in-the-Local-Church.pdf>; Brief of Amici Curiae Religious Coalition for Reproductive Choice, et al., in Support of Respondent, *Stenberg v. Carhart*, No. 99-380 (Mar. 29, 2000) (describing views of American Friends Service Committee affirming “a woman’s right to follow her own conscience concerning child-bearing, abortion, and sterilization”); Metro. Cmty. Churches, *Statement of Faith on Women’s Reproductive Health, Rights, and Justice* (Mar. 20, 2013), <https://web.archive.org/web/20210505115505/https://www.mccchurch.org/statement-of-faith-on-womens-reproductive-health-rights-and-justice/> (affirming “that all people are entitled to the rights and resources that equip them to make their own decisions about their bodies . . . and their well-being, including the inalienable right of women to control their bodies”).

“therefore should not be restricted by law.”³⁰ The Evangelical Lutheran Church in America affirms that “there can be sound reasons for ending a pregnancy through induced abortion,” and that obtaining an abortion can be a “morally responsible” choice in some situations.³¹ Many American Baptists believe that abortion “can be a morally acceptable action,” and “advocate for and support . . . legalized abortion as in the best interest of women in particular and society in general.”³² The Episcopal Church of America similarly recognizes “the moral option for termination of [a] pregnancy in specific instances.”³³ It holds a “deep conviction” that any abortion laws “must take special care to see that individual

³⁰ Presbyterian Church (U.S.A.), *Abortion/Reproductive Choice Issues*, *supra* note 9.

³¹ Evangelical Lutheran Church in America, *Social Statement on Abortion*, *supra* note 9, at 6–7.

³² Am. Baptist Ass’n, *Resolution Concerning Abortion and Ministry in the Local Church*, *supra* note 28, at 1; *see also* Alliance of Baptists, *A Statement on Lifelong Sexual Education, Sexual & Reproductive Rights, and Opposing Sexual Justice and Violence* (2012), <https://web.archive.org/web/20210115142453/https://allianceofbaptists.org/assets/uploads/congregations/LifelongSexualEducation2012.pdf>.

³³ Episcopal Church, *Standing Commission on Human Affairs and Health*, *supra* note 25, at 153.

conscience is respected,”³⁴ without “abridg[ing]” women’s rights “to reach an informed decision about the termination of pregnancy” or limiting their access “to safe means of acting on [their] decision[s].”³⁵ Other Protestant denominations espouse similar views.³⁶

There are also diverse views within the Catholic community on the propriety of obtaining an abortion. While the official stance of the Catholic Church is that abortion is impermissible,³⁷ the majority of American Catholics believe that abortion can be a

³⁴ *Id.*

³⁵ General Convention, *Journal of the General Convention of . . . The Episcopal Church*, Indianapolis, 1994 (New York: General Convention, 1995), at 323–25, https://www.episcopalarchives.org/cgi-bin/acts/acts_generate_pdf.pl?resolution=1994-A054.

³⁶ See Thirteenth General Synod of the United Church of Christ, *Resolution on Freedom of Choice*, *supra* note 23; Freedom of Choice Act of 1989: Hearing on S. 1912 Before the S. Comm. On Labor and Human Resources, 101st Cong. 237, *supra* note 26.

³⁷ Vatican Congregation for the Doctrine of the Faith, *Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation* (1987), https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html.

morally acceptable choice,³⁸ and that abortion should be legal in all or most cases.³⁹

Traditional Jewish teachings view abortion as permissible and even required when necessary to safeguard the well-being of the mother. See Mishnah Ohalot 7:6.⁴⁰ Reform, Reconstructionist, and Conservative Judaism all adopt the view that “women are capable of making moral decisions, often in consultation with their clergy, families and physicians, on whether or not to have an

³⁸ Belden Russonello Strategists, *2016 Survey of Catholic Likely Voters*, at 5 (Oct. 2016), <https://web.archive.org/web/20220121203457/http://www.rifuture.org/wp-content/uploads/2016-Catholic-Voter-Poll.pdf> (“Sixty percent of Catholic likely voters overall say that ‘deciding to have an abortion can be a morally acceptable position.’”).

³⁹ Dalia Fahmy, *8 Key Findings about Catholics and Abortion*, PEW RSCH. CTR. (Oct. 20, 2020), <https://www.pewresearch.org/fact-tank/2020/10/20/8-key-findings-about-catholics-and-abortion/> (finding 56% of Catholics believe abortions should be legal in all or most circumstances), see also PEW RSCH. CTR., *U.S. Public Continues to Favor Legal Abortion, Oppose Overturning Roe v. Wade* (Aug. 29, 2019), <https://www.pewresearch.org/politics/2019/08/29/u-s-public-continues-to-favor-legal-abortion-oppose-overturning-roe-v-wade/>.

⁴⁰ See Strauss, *When Does Life Begin?*, *supra* note 14; NCJW, *Abortion and Jewish Values*, *supra* note 19, at 16; Ruttenberg, *Torah of Abortion Justice*, *supra* note 19 at 6 (Rashi on Sanhedrin 72b:14).

abortion.”⁴¹ In 2021, hundreds of Jewish leaders reaffirmed the importance of access to reproductive healthcare, including abortion, as an essential matter of religious freedom.⁴²

Other major religions likewise teach that abortion is both permissible and moral under certain circumstances, and require that women be permitted to decide whether to choose that path in accordance with their faiths and values.⁴³ For instance, many

⁴¹ 144 CONG. REC. S10491 (daily ed. Sept. 17, 1998) (quoting Letter of 729 Rabbis in Support of President Clinton’s Veto of H.R. 1122 (Sept. 10, 1998)); *see also* Religious Action Ctr. of Reform Judaism, *Reproductive Health and Rights* (2023), <https://rac.org/issues/reproductive-health-and-rights> (“The Reform Movement’s positions on reproductive rights are grounded in the core belief that each person should have agency and autonomy over their own bodies.”).

⁴² Letter of Jewish Clergy Leaders to the Senate Committee on the Judiciary, dated July 16, 2021, https://www.ncjw.org/wp-content/uploads/2021/07/06-16-2021_Jewish-Clergy-Leaders-WHPA-Letter-FINAL-1.pdf.

⁴³ *See, e.g.*, Mohammad A. Albar, *Induced Abortion From An Islamic Perspective: Is It Criminal Or Just Elective*, 8 J. FAM. CMTY. MED. 25, 29–32 (2001); Strauss, *When Does Life Begin?*, *supra* note 14; Buddhist Churches of America Social Issues Committee, *A Shin Buddhist Stance on Abortion* at 6, Buddhist Peace Fellowship Newsletter (1984); *Hindus in America Speak Out On Abortion Issues*, HINDUISM TODAY, (Sept. 1985), <https://www.hinduismtoday.com/magazine/september-1985/1985-09-hindus-in-america-speak-out-on-abortion-issues/>.

schools of Islamic thought permit abortion, under certain circumstances, at any point up to 120 days from conception, or within approximately 19-20 weeks of gestation.⁴⁴ And most Buddhists and Hindus in the United States believe that abortion should be legal in all or most cases.⁴⁵

By using a particular, faith-based view as the predicate for a sweeping prohibition of almost all abortions after 15 weeks after the first day of a woman's LMP, HB 5 effectively imposes one set of religious beliefs on all Floridians. HB 5 tramples on other faiths' teachings on when life begins. It bars many Floridians from following their own conscience and faiths in deciding whether to terminate a pregnancy.

HB 5 also bars faith leaders from counseling congregants on the teachings of their religious traditions. Indeed, seven Florida clergy members—representing the Episcopal Church, the United Church of Christ, the Unitarian Universalist Church, Reform

⁴⁴ Albar, *supra* note 42; see also Strauss, *When Does Life Begin?*, *supra* note 14.

⁴⁵ PEW RSCH. CTR., *U.S. Public Becoming Less Religious*, at 110, 197 (Nov. 3, 2015) <https://www.pewresearch.org/religion/2015/11/03/u-s-public-becoming-less-religious/>.

Judaism, and Buddhism—have brought suit in Florida courts, seeking relief from HB 5’s restriction on their abilities to counsel pregnant congregants on the teachings of their faith concerning abortion.⁴⁶

For all of these reasons, HB 5 violates the rights of privacy and religious freedom that are enshrined in the Florida Constitution. Art. I, § 23, Fla. Const.

III. RELIGIOUS TRADITIONS AFFIRM THE IMPORTANCE OF ENSURING REPRODUCTIVE CHOICE FOR WOMEN IN MARGINALIZED COMMUNITIES

Many religious traditions embrace the importance of serving and supporting vulnerable and marginalized communities. These traditions teach that people of faith have a moral obligation to protect, succor, uplift, and advocate on behalf of poor and low-income persons and those who historically have been disenfranchised or victims of discrimination. Numerous religions expressly affirm that this charge includes ensuring that women from low-income communities and/or marginalized communities

⁴⁶ See *Hafner, et al. v. State of Florida, et al.*, No. 2022-014370 (Fla. 11th Cir. Ct.).

have access to healthcare, including abortion, and the freedom to make decisions concerning their reproductive health.

For example, the United Church of Christ supports ensuring that “women with limited financial means” can “exercise [their] legal right[s] to the full range of reproductive health services.”⁴⁷ Similarly, the Unitarian Universalist Association insists on “everyone’s freedom of reproductive choice . . . especially the most vulnerable and marginalized,”⁴⁸ and condemns attempts “to restrict access to birth control and abortion by overriding individual decisions of conscience” which “often result in depriving poor women of their right to medical care.”⁴⁹ In addition, some Catholics believe that protecting the rights of poor and vulnerable individuals to end their pregnancies is a natural and necessary outgrowth of Catholic social justice principles.⁵⁰ And many Jews

⁴⁷ United Church of Christ, *Statement on Reproductive Health and Justice*, *supra* note 3.

⁴⁸ Unitarian Universalist Ass’n, *Reproductive Justice 2015 Statement of Conscience*,

<https://www.uua.org/action/statements/reproductive-justice>.

⁴⁹ Unitarian Universalist Ass’n, *General Resolution on the Right to Choose* (1987), *supra* note 27.

⁵⁰ Catholics for Choice, *Social Justice* (2023), <https://www.catholicsforchoice.org/issues/social-justice/> (“Catholic social

expressly link the Jewish teaching of *tzedek tzedek tirdof*—i.e., to pursue justice for all—to the obligation to advocate for the reproductive rights of *all* women as integral to religious liberty, to allow them to make their own moral or faith-based decisions about their bodies, health, families, and futures.⁵¹

If HB 5 remains in effect, it will devastate vulnerable and low-income communities in Florida. The majority of abortion patients nationwide are either poor or low-income,⁵² and 13.1% of Floridians live at or below the poverty line.⁵³ Moreover, Florida’s maternal vulnerability index is one of the highest in the country⁵⁴

justice doctrine teaches that caring for the poor and marginalized should be our first priority. Ideological battles about abortion and contraception access always inflict disproportionate harm on the economically disadvantaged, the powerless, and people of color.”).

⁵¹ See NCJW, *Abortion and Jewish Values*, *supra* note 19, at 13–14.

⁵² See GUTTMACHER INST., *Fact Sheet: Induced Abortion in the United States*, at 1 (2019), https://www.guttmacher.org/sites/default/files/factsheet/fb_induced_abortion.pdf.

⁵³ See U.S. CENSUS BUREAU, *QuickFacts: Florida, Persons in poverty, percent*, <https://www.census.gov/quickfacts/fact/table/FL/IPE120221>.

⁵⁴ Surgo Ventures, *Maternal Vulnerability in The US – A Shameful Problem For One Of The World’s Wealthiest Countries* (2021), <https://mvi.surgoventures.org/>.

and Non-Hispanic Black women in Florida “[a]re almost four times as likely to have a [pregnancy related death] compared with Non-Hispanic White women” due to heightened comorbidities and potential pregnancy complications.⁵⁵ In addition, HB 5 leaves poorer Floridians seeking abortion care with little recourse if their only option is to travel hundreds to thousands of miles to another state when they cannot afford to do so.⁵⁶ HB 5 thus disproportionately burdens the most vulnerable Floridians—not only by eliminating their freedom to make decisions about their reproductive health and families in accordance with their religious beliefs—but by exposing them to increased health and financial risks.

CONCLUSION

HB 5 eliminates Floridians’ abilities to make deeply personal decisions about pregnancy and reproductive health consistent with their conscience and religious beliefs, and bars faith leaders

⁵⁵ FLA. DEP’T HEALTH, *Florida’s Maternal Mortality Review Committee 2020*, <https://www.floridahealth.gov/statistics-and-data/PAMR/FLMMRC-2020-update.pdf> at 5, 21 (October 2022); R. at 463-64.

⁵⁶ See R. at 460-61, 466-67, 481-83.

from counseling congregants about the teachings of their faith on these subjects. This Court should affirm the Circuit Court’s temporary injunction and vacate the First District’s stay of that injunction.

DATED: March 9, 2023

Respectfully submitted,

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I hereby certify that a true and correct copy of the above and foregoing was provided by email this 9th day of March, 2023, to:

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I hereby certify that that this Brief complies with the font requirements of Florida Rule of Appellate Procedure 9.045(b) and the word limit requirements of Rule 9.370(b).

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