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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

JOHN/JANE DOE, a Priest of The Episcopal Church in Miami-Dade County, Florida,

Case No._____

Plaintiff,

VERIFIED COMPLAINT

-against-

STATE OF FLORIDA, ASHLEY MOODY, in her official capacity as ATTORNEY GENERAL for the State of Florida; GINGER BOWDEN MADDEN, in her official capacity as State Attorney for the First Judicial Circuit of Florida; JACK CAMPBELL, in his official capacity as State Attorney for the Second Judicial Circuit of Florida; JOHN DURRETT, in his official capacity as State Attorney for the Third Judicial Circuit of Florida; MELISSA W. NELSON, in her official capacity as State Attorney for the Fourth Judicial Circuit of Florida; WILLIAM GLADSON, in his official capacity as State Attorney for the Fifth Judicial Circuit of Florida; BRUCE BARTLETT, in his official capacity as State Attorney for the Sixth Judicial Circuit of Florida; R.J. LARIZZA, in his official capacity as State Attorney for the Seventh Judicial Circuit of Florida; BRIAN S. KRAMER, in his official capacity as State Attorney for the Eighth Judicial Circuit of Florida; MONIQUE H.WORRELL, in her official capacity as State Attorney for the Ninth Judicial Circuit of Florida; BRIAN HAAS, in his official capacity as State Attorney for the Tenth Judicial Circuit of Florida; KATHERINE FERNANDEZ RUNDLE, in her official capacity as State Attorney for the Eleventh Judicial Circuit of Florida; ED BRODSKY, in his official capacity as State Attorney for the Twelfth Judicial Circuit of Florida; ANDREW H. WARREN, in his official capacity as State Attorney for the Thirteenth Judicial Circuit of Florida; LARRY BASFORD, in his official capacity as State Attorney for the Fourteenth Judicial Circuit of Florida; DAVID A. ARONBERG, in his official capacity as State

Attorney for the Fifteenth Judicial Circuit of Florida; DENNIS W. WARD, in his official capacity as State Attorney for the Sixteenth Judicial Circuit of Florida; HAROLD F. PRYOR, in his official capacity as State Attorney for the Seventeenth Judicial Circuit of Florida; PHILIP G. ARCHER, in his official capacity as State Attorney for the Eighteenth Judicial Circuit of Florida; THOMAS BAKKEDAHL, in his official capacity as State Attorney for the Nineteenth Judicial Circuit of Florida; and AMIRA D. FOX, in his official capacity as State Attorney for the Twentieth Judicial Circuit of Florida,

Defendants.

VERIFIED COMPLAINT

For the Verified Complaint against Defendants the State of Florida, Ashley Moody, Ginger Bowden Madden, Jack Campbell, John Durrett, Melissa W. Nelson, William Gladson, Bruce Bartlett, R.J. Larizza, Brian S. Kramer, Monique H. Worrell, Brian Haas, Katherine Fernandez-Rundle, Ed Brodsky, Andrew Warren, Larry Basford, David A. Aronberg, Dennis W. Ward, Harold F. Pryor, Philip G. Archer, Thomas Bakkedahl, and Amira D. Fox, each of whom are sued in their official capacities (collectively referred to herein as "Defendants"), Plaintiff John/Jane Doe, by and through undersigned counsel, alleges and avers as follows:

PRELIMINARY STATEMENT

1. This is a lawsuit brought by an Episcopal Priest in Miami-Dade County, whose religious beliefs, speech, and conduct are severely burdened by the state of Florida's criminalization of abortion in many circumstances where the Episcopal faith supports the decision to have an abortion on religious grounds. The lawsuit is seeking to invalidate House Bill 5, the Reducing Fetal and Infant Mortality Act ("HB 5" or the "Act"), because it violates (1) the rights of Plaintiff to liberty of speech and free exercise and enjoyment of religion, guaranteed by Article I,

§§ 3, 4 of the Florida Constitution, (2) the Florida Religious Freedom Restoration Act, Fla. Stat. Ann. § 761.03 ("FRFRA") and (3) Plaintiff's freedom of speech and free exercise of religion guaranteed by the First and Fourteenth Amendment to the United States Constitution. Under HB 5 and Florida's criminal law, Plaintiff is at risk of prosecution for counseling women, girls, and families to obtain an abortion beyond the narrow bounds of HB 5 as someone who aids and abets the crime. Under Florida's aiding and abetting law, they commit the crime itself by counseling in favor of it.

2. Since 1967, the Episcopal Church ("Church"), by and through its national governing body, has affirmed both the sanctity of *all* human life and a woman and girl's right to choose in decisions related to pregnancy and other reproductive healthcare measures, including abortion procedures.

3. The relationship between an Episcopal clergy member and their congregants represents a sacred trust. Under Episcopal principles, clergy have an obligation to help form the consciences of their congregants and members of the faith community concerning the sacredness of all human life. This pastoral relationship is designed to facilitate the foundational principle of all Episcopal counseling: the congregant's right to "dignity and self-determination."

4. Throughout its history, members of the Episcopal Church have sought counsel and guidance from their Clergy on issues related to the spiritual, physiological, and psychological aspects of sex and sexuality including decisions related to pregnancy and childbirth, family planning, and abortion. In return, Episcopal clergy provide counseling that aligns with their congregants' rights to dignity, self-determination, and the freedom to know and express God's love in all of its many forms.

5. The Episcopal Church believes that "access to abortion is a key element in preserving the health, independence, and autonomy of those who can bear children," and "all Episcopalians should be able to access abortion services and birth control with no restriction on movement, autonomy, type, or timing." General Convention, *D083 Addressing the erosion of reproductive rights and autonomy*, JOURNAL OF THE GENERAL CONVENTION OF...THE EPISCOPAL CHURCH (July 8-11, 2022). In fact, the Church "understands that the protection of religious liberty extends to all Episcopalians who may need or desire to access, to utilize, to *aid* others in the procurement of, or to offer abortion services." *Id*. (emphasis added).

6. Specifically, when approached regarding an abortion for a woman or girl who is a victim of incest, rape, or trafficking, Plaintiff would unequivocally counsel the congregant that abortion is an appropriate option pursuant to Episcopal beliefs and ideals. Plaintiff would further offer to accompany the victim to an abortion provider.

7. The relationship between clergy and their congregants has, until now, been protected, revered, and respected as sacrosanct and inviolable. Now, Defendants have inserted themselves into this alliance with God by imposing criminal penalties on those who counsel, aid and/or assist with an abortion after fifteen weeks, with no religious accommodation provided and no exceptions for incest, rape, trafficking, non-fatal fetal abnormalities, or psychological disease or impairment.

8. Plaintiff engages in religious counseling that honors the congregants' autonomy and freedom to choose when faced with an unwanted or at-risk pregnancy, guiding congregants to reach informed decisions about the termination of said pregnancy and to act upon such decisions.

9. The Florida Legislature passed the Act, which bans abortions after fifteen weeks as dated from the first day of a woman's last menstrual period (LMP) with two extremely limited

exceptions. *See* Ch. 2022-69, §§ 3–4, Laws of Fla. (amending §§ 390.011, 390.0111, Fla. Stat.); Fla. Stat. § 390.0111(1)(a)–(b); § 390.011(6). There is no exception for incest, rape, trafficking, non-fatal fetal abnormalities, or psychological disease or impairment.

10. The Act was signed into law by Governor Rick DeSantis on April 14, 2022, and it took effect on July 1, 2022.

11. HB 5, entitled the Infant and Fetal Abnormality Act, establishes as the law of the State of Florida, a pernicious elevation of the legal rights of fetuses while at the same time it de-values the quality of life and the health of the woman or girl who is pregnant. It is in direct conflict with Plaintiff's clerical obligations and faith and imposes severe barriers and substantial burdens to their religious belief, speech, and conduct. It also imposes severe burdens on the religious beliefs, speech, and conduct of their congregants and members of Plaintiff's Church, and the Episcopal faith.

12. HB 5 violates the sacred trust between a clergy member and his or her congregants, and tramples Plaintiff's First Amendment and Florida constitutional rights to free speech and free exercise of religion, and the rights under FRFRA. It also violates the separation of church and state under the federal and state constitutions.

13. Bedrock principles under the First Amendment invalidate HB 5, and Defendants' actions have caused, are causing, and will continue to cause irreparable injury to Plaintiff's fundamental and cherished liberties.

14. The dramatic change in abortion rights in Florida has caused confusion and fear among clergy and pregnant girls and women particularly in light of the criminal penalties attached. Given their general duties and work as a Priest, Plaintiff intends to engage in counseling regarding

abortion beyond the narrow limits of HB 5 and, therefore, risks incarceration and financial penalties.

15. When fundamental rights like the freedom of speech and free exercise hang in the balance, a plaintiff is not required to expose themselves to actual arrest or prosecution. HB 5's criminal penalties constitute a credible threat of prosecution to Plaintiff.

16. HB 5 severely chills the speech of Episcopal clergy with their congregants, because it is unconstitutionally vague and, therefore, severely chills speech on this sacred communication. The Act further provides for no exceptions for the victims of incest, rape, or trafficking, non-fatal fetal abnormalities, or psychological disease or impairment, which are all circumstances in which the Episcopal Church would, amongst other circumstances, support and/or counsel in favor of an individual's decision to have an abortion before or after fifteen weeks.

17. A violation of the Act constitutes a third-degree felony; "any person" who "willfully performs" or "**actively participates**" in an abortion in violation of the law is subject to criminal penalties, including imprisonment of up to five years and monetary penalties up to $5,000 for a first offense. §§ 390.0111(10)(a), 775.082(8)(e), 775.083(1)(c), Fla. Stat. (emphasis added).

18. Under Florida law, counseling or encouraging a crime constitutes "aiding and abetting" that crime and is considered under the law someone who committed the crime. *See* Fla. Stat. § 777.011 ("Whoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, counsels, hires, or otherwise procures such offense to be committed… is a principal in the first degree and may be charged, convicted, and punished as such, whether he or she is or is not actually or constructively present at the commission of such offense."). Thus, counseling to obtain an abortion in violation of HB 5's severe strictures appears likely to be a crime under HB 5.

19. HB 5 criminalizes abortion after fifteen weeks from the LMP except in severely limited exceptions. While it clearly regulates doctors and healthcare delivery centers, its criminal penalties for them can be interpreted to create criminal aiding and abetting liability for clergy who counsel a family or pregnant woman or girl to seek an abortion beyond the narrow confines HB 5 permits. The Act is so vague that it provides no reliable guidance regarding whether Plaintiff will violate the law when they affirmatively advise and support their believers to choose an abortion beyond HB 5's extreme limitations. *See* Ch. 2022-69, §§ 3–4, Laws of Fla. The Act leaves Plaintiff with no choice but to interpret the Act broadly due to its vagueness, or risk criminal penalties.

20. Since time immemorial, the questions of when a potential fetus or fetus becomes a life and how to value maternal life during a pregnancy have been answered according to religious beliefs and creeds. HB 5 codifies one of the possible religious viewpoints on the question, and in its operation imposes severe burdens on other believers including Episcopalians and their clergy like Plaintiff.

21. The Act severely burdens Plaintiff's right to engage in religious speech regarding when the Episcopal faith holds that life begins and the value placed on the mother's life. It further burdens the ability to speak freely and publicly about their religious beliefs and to provide religious counseling consistent with those beliefs, in violation of Plaintiff's free speech and religious liberty rights.

22. Thus, Plaintiff seeks preliminary and permanent injunctive relief against Defendants, enjoining the enforcement of the Act, and a declaratory judgment declaring that the Act, both on its face and as applied, is an unconstitutional violation of Article I, §§ 3, and 4 of the Florida Constitution, FRFRA and the First and Fourteenth Amendments to the United States Constitution.

THE PARTIES, JURISDICTION, AND VENUE

23. Plaintiff JOHN/JANE DOE ("Plaintiff") is a Priest in an Episcopal Church operating in Miami-Dade County, Florida. Plaintiff files this lawsuit on behalf of him or herself because Plaintiff is in danger of criminal penalty due to the sacred duty to advise and counsel the congregants, members, supporters, and families within the Episcopal congregation on the principles and ideologies of the faith, particularly related to maternal health, abortion and related reproductive healthcare measures, as well as incest, rape, and trafficking.

Defendants

24. Defendant, the State of Florida, through its Legislature and Governor adopted the challenged Act.

25. Defendant Ashley Moody is the Attorney General for the State of Florida, an elected cabinet official and the chief legal officer in the State of Florida, responsible for the enforcement of the laws of Florida and obligated to offer her opinion if she concludes that a law, such as the Act, is unconstitutional and unenforceable. Defendant Moody is sued in her official capacity as are her agents and successors.

26. Defendant Ginger Bowden Madden is the state attorney of the First Judicial Circuit of Florida. Defendant Bowden Madden is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Bowden Madden is sued in her official capacity, as are her agents and successors.

27. Defendant Jack Campbell is the state attorney of the Second Judicial Circuit of Florida. Defendant Campbell is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Campbell is sued in his official capacity, as are his agents and successors.

28. Defendant John Durrett is the state attorney of the Third Judicial Circuit of Florida. Defendant Durrett is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Durrett is sued in his official capacity, as are his agents and successors.

29. Defendant Melissa W. Nelson is the state attorney of the Fourth Judicial Circuit of Florida. Defendant Nelson is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Nelson is sued in her official capacity, as are her agents and successors.

30. Defendant William Gladson is the state attorney of the Fifth Judicial Circuit of Florida. Defendant Gladson is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Gladson is sued in his official capacity, as are his agents and successors.

31. Defendant Bruce Bartlett is the state attorney of the Sixth Judicial Circuit of Florida. Defendant Bartlett is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Bartlett is sued in his official capacity, as are his agents and successors.

32. Defendant R.J. Larizza is the state attorney of the Seventh Judicial Circuit of Florida. Defendant Larizza is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Larizza is sued in his official capacity, as are his agents and successors.

33. Defendant Brian S. Kramer is the state attorney of the Eighth Judicial Circuit of Florida. Defendant Kramer is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Kramer is sued in his official capacity, as are his agents and successors.

34. Defendant Monique H. Worrell is the state attorney of the Ninth Judicial Circuit of Florida. Defendant Worrell is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Worrell is sued in her official capacity, as are her agents and successors.

35. Defendant Brian Haas is the state attorney of the Tenth Judicial Circuit of Florida. Defendant Haas is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Haas is sued in his official capacity, as are his agents and successors.

36. Defendant Katherine Fernandez-Rundle is the state attorney of the Eleventh Judicial Circuit of Florida. Defendant Fernandez-Rundle is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Fernandez-Rundle is sued in her official capacity, as are her agents and successors.

37. Defendant Ed Brodsky is the state attorney of the Twelfth Judicial Circuit of Florida. Defendant Brodsky is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Brodsky is sued in his official capacity, as are his agents and successors.

38. Defendant Andrew H. Warren is the state attorney of the Thirteenth Judicial Circuit of Florida. Defendant Warren is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Warren is sued in his official capacity, as are his agents and successors.

39. Defendant Larry Basford is the state attorney of the Fourteenth Judicial Circuit of Florida. Defendant Basford is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Basford is sued in his official capacity, as are his agents and successors.

40. Defendant David A. Aronberg is the state attorney of the Fifteenth Judicial Circuit of Florida. Defendant Aronberg is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Aronberg is sued in his official capacity, as are his agents and successors.

41. Defendant Dennis W. Ward is the state attorney of the Sixteenth Judicial Circuit of Florida. Defendant Ward is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Ward is sued in his official capacity, as are his agents and successors.

42. Defendant Harold F. Pryor is the state attorney of the Seventeenth Judicial Circuit of Florida. Defendant Pryor is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Pryor is sued in his official capacity, as are his agents and successors.

43. Defendant Philip G. Archer is the state attorney of the Eighteenth Judicial Circuit of Florida. Defendant Archer is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Archer is sued in his official capacity, as are his agents and successors.

44. Defendant Thomas Bakkedahl is the state attorney of the Nineteenth Judicial Circuit of Florida. Defendant Bakkedahl is authorized to initiate and prosecute alleged violations of the Act. § 27.02(1), Fla. Stat. Defendant Bakkedahl is sued in his official capacity, as are his agents and successors.

45. Defendant Amira D. Fox is the state attorney of the Twentieth Judicial Circuit of Florida. Defendant Fox is authorized to initiate and prosecute alleged violations of the Act.

§ 27.02(1), Fla. Stat. Defendant Fox is sued in his official capacity, as are his agents and successors.

Jurisdiction and Venue

46. Court has jurisdiction over this action pursuant to Article V, § 5(b) of the Florida Constitution and Sections 26.012(3) and 86.011, Florida Statutes.

47. This Court is authorized to grant declaratory judgment under and a permanent injunction pursuant to Chapter 86 and Section 26.012(3), Florida Statutes, and Florida Rules of Civil Procedure Rule 1.610.

48. Venue is proper in this Court pursuant to Section 47.021, Florida Statutes, because at least one Defendant has a principal office in Miami-Dade County.

STATEMENT OF FACTS

49. Episcopal clergy teach that the decision by a member of the Episcopal faith to terminate a pregnancy for any reason should be based on a combination of diverse, complex, and interrelated factors that are often intimately tied to the individual woman or girl's religious values and beliefs under the Episcopal faith.

50. Some women and girls such as members, congregants and supporters of Plaintiff's Church choose to obtain an abortion with the support of their clergy because it is consistent with the beliefs of the Episcopal Church.

51. For Episcopalians, all human life is sacred and thus the decision to bring new life into the world is not taken lightly and includes the value of life and well-being of the pregnant woman or girl. The General Conventions of the Episcopal Church recognize the moral, legal, personal, and societal complexity of the issue and the liturgical text requires great pastoral

sensitivity to the needs of women, girls, and others who may give birth, as well as all involved in decisions relating to abortion.

52. In the moral decision-making process, Episcopalians draw from the three pillars of their faith: Scripture, Tradition, and God-given Reason. Through this lens, the Episcopal Church maintains that access to equitable health care, including reproductive health care and reproductive procedures, is "an integral part of a woman's struggle to assert her dignity and worth as a human being" and holds that reproductive health procedures should be treated as all other medical procedures and "not singled out or omitted by or because of gender." General Convention, *D082 Advocate for Gender Equity, Including Reproductive Rights, in Healthcare*, JOURNAL OF THE GENERAL CONVENTION OF...THE EPISCOPAL CHURCH (2018).

53. The Episcopal Church has also upheld the "unequitable opposition to any legislation on the part of the national or state governments which would abridge or deny the right of individuals to reach informed decisions [about the termination of pregnancy] and to act upon them." The Episcopal Church, Office of Government Relations, *Summary of General Convention Resolutions on Abortion and Women's Reproductive Health* (May 17, 2019), https://www.episcopalchurch.org/ogr/summary-of-general-convention-resolutions-on-abortion-and-womens-reproductive-health/.

54. Likewise, the 1994 Act of Convention, states the Church opposes any "executive or judicial action to abridge the right of a woman to reach an informed decision . . . or that would limit the access of a woman to safe means of acting on her decision." The Episcopal Church, Office of Public Affairs, *Statement on Supreme Court Dobbs decision by Presiding Bishop Michael Curry* (June 24, 2022), https://www.episcopalchurch.org/publicaffairs/statement-on-supreme-court-dobbs-decision-by-presiding-bishop-michael-curry/.

55. Plaintiff firmly believes and supports the principles of the Episcopal faith related to reproductive health care and procedures, including abortions, and uses these beliefs in counseling and advising the Church's congregants and their broader communities.

56. Throughout the years serving as a Priest in an Episcopal Church, Plaintiff has provided guidance and counseling to women and girls within the congregations who had to make decisions relating to pregnancy and childbirth, family planning, and who face infertility and at-risk pregnancies.

57. During a sermon following the Supreme Court decision *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade*, conferring the right to abortion, Plaintiff supported the Church's position on abortion procedures and read from statements made by the recently retired President of the House of Deputies and the Presiding Bishop of the Episcopal Church highlighting the importance of access to reproductive healthcare and procedures, including abortions, and calling on members of the Episcopal faith to peacefully protest state laws that seek to deny them and protecting the clergy who will be caring for and counseling pregnant people in concurrence with the decision.

58. Plaintiff has also counseled congregants on abortion care, including a congregant who had undergone in vitro fertilization and was pregnant with multiple fetuses. In the second trimester of the pregnancy, she was medically advised to reduce the number of fetuses due to medical and health concerns of both herself and the fetuses.

59. In each instance, Plaintiff counseled the Church's congregants in accordance with the Episcopal principles of the moral decision-making process and the firmly held religious beliefs related to reproductive healthcare as shaped by those principles. As a result of the significant

inconsistencies between Episcopal beliefs and the Act, it is inevitable that additional congregants will seek counsel on these issues.

60. As set forth above, on July 1, 2022, the Act took effect. As a result, Florida's law now bans abortions after fifteen weeks from the LMP with two extremely limited exceptions. *See* Ch. 2022-69, §§ 3–4, Laws of Fla. (amending §§ 390.011, 390.0111, Fla. Stat.); Fla. Stat. § 390.0111(1)(a)–(b); § 390.011(6).

61. The Act establishes as the law of the State of Florida, a particular and narrow religious view about abortion and when "life" begins. This view is contrary to the religious beliefs of Plaintiff and the Episcopal faith.

62. The Act further provides for no exceptions for the psychological health of the mother or family, non-fatal fetal abnormalities, or victims of incest, rape, or trafficking, which are all circumstances in which the Episcopal Church would, amongst other circumstances, support and/or counsel in favor of a girl or woman's decision to have an abortion before or after 15 weeks.

63. As mentioned, a violation of the Act constitutes a third-degree felony; "any person" who "actively participates" in an abortion in violation of the law is subject to criminal penalties, including imprisonment of up to five years and monetary penalties up to $5,000 for a first offense. §§ 390.0111(10)(a), 775.082(8)(e), 775.083(1)(c), Fla. Stat. (emphasis added). Counseling or encouraging a crime constitutes "aiding and abetting" a crime under Florida law. *See* Fla. Stat. § 777.011. Thus, counseling to obtain an abortion in violation of HB 5's strictures appears likely to be a crime under HB 5.

64. HB 5 criminalizes abortion after 15 weeks gestation (except for severely limited exceptions) but is so vague that it provides no reliable guidance regarding whether clergy violate

the law as aiders and abettors when they affirmatively advise and support their believers to choose an abortion beyond HB 5's extreme limitations. *See* Ch. 2022-69, §§ 3–4, Laws of Fla.

65. The Act's vagueness and criminal penalties have chilled Plaintiff's ability to discuss and counsel a congregant's choices and considerations regarding healthcare, including abortion services. After the Act went into effect, Plaintiff was informed by the Bishop of the Episcopal Diocese of Southeast Florida that members of the clergy within the Church needed to think through and pray on how they would address the topic of abortions moving forward out of concern for the repercussions under the Act.

66. Plaintiff's beliefs are consistent with the Episcopal principles set forth above and, as a result, the Act substantially burdens the exercise of religious faith, because it hampers Plaintiff's ability to counsel congregants and speak freely on reproductive rights and issues, and burdens the congregants' ability to seek counsel from their religious leader.

67. The Act prohibits Plaintiff and similarly situated members of the clergy from practicing their faith and carrying out their duties as a clergy member and leader of a congregation. Instead, they face government intrusion, including possible criminal penalties, in violation of their First Amendment rights.

68. By impeding congregants from receiving religious counsel on these intimate decisions about their families or when and under what circumstances to bring new life into the world, the Act not only threatens the clerical role of Plaintiff but also the lives, dignity, and equality of Episcopal women and girls in denying religious freedom to congregants and their families. Thus, the Act effectively establishes the religion of its State proponents and prohibits the free exercise of the Episcopal religion by prohibiting Plaintiff's members, congregants, and supporters

from exercising their religious beliefs in the most intimate decisions of their lives in consultation with their clergy, medical providers, and family.

69. Because of the Act, Plaintiff is restricted from engaging in constitutionally protected speech, including providing counseling services to willing congregants and members of the community consistent with Plaintiff's sincerely held religious beliefs.

70. Because of the Act, Plaintiff, as well as other members of the Episcopal faith community, have suffered, are suffering, and will continue to suffer ongoing, immediate, and irreparable injury to their free speech and religious liberty rights.

71. Plaintiff has no adequate remedy at law to protect the ongoing, immediate, and irreparable injury to Plaintiff's constitutional rights.

72. The Act serves no compelling, legitimate, or rational governmental interest and in fact is harmful to the interests of the people of Florida. Thus, the relief sought by Plaintiff will serve the public interest.

COUNT I
VIOLATION OF FLORIDA RELIGIOUS FREEDOM RESTORATION ACT

73. Plaintiff hereby reiterates and adopts each and every allegation in the preceding paragraphs as if fully set forth herein.

74. FRFRA prohibits the government from substantially burdening a person's exercise of religion even if the burden results from a law of general applicability, unless the government can demonstrate that application of the burden to the person: (1) furthers a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest. The Act applies to any and all religious beliefs, speech, and conduct, not just those that are "central" to the faith. According to the Act, "any person" who "actively

participates" in an abortion in violation of the law is subject to criminal penalties. §§ 390.0111(10)(a), 775.082(8)(e), 775.083(1)(c), Fla. Stat.

75. Through the Act, the government has placed a substantial burden on Plaintiff's religious practice, which is motivated by their sincere religious belief.

76. The Act substantially burdens Plaintiff, as well as their congregants and all members of the Episcopal faith, in the exercise of their Episcopal beliefs and practices regarding abortion.

77. The Episcopal Church not only religiously supports access to reproductive health care, including abortion procedures, but requires it. Abortion access is a "key element in preserving the health, independence, and autonomy of those who can bear children," and "all Episcopalians should be able to access abortion services and birth control with no restriction on movement, autonomy, type, or timing." General Convention, *D083 Addressing the erosion of reproductive rights and autonomy*, JOURNAL OF THE GENERAL CONVENTION OF...THE EPISCOPAL CHURCH (July 8-11, 2021).

78. The Episcopal Church further maintains that access to equitable health care, including reproductive health care and reproductive procedures such as an abortion, is an essential part of a woman's effort to "assert her dignity and worth as a human being." "Faith in a compassionate God" requires members of the Episcopal Church to "make [their] Christian witness to the dignity of every human being by insisting that [they] support the right to safe and legal reproductive health care," including abortion procedures. *From President Jennings: Responding to the Supreme Court Decision on Dobbs v. Jackson Women's Health Organization*, House of Deputies of the Episcopal Church (June 24, 2022) (statement from Rev. Gay Clark Jennings, President of the House of Deputies of the Episcopal Church).

79. The Act intentionally places a substantial burden on Plaintiff's sincerely held religious beliefs by prohibiting the practice of Episcopal ideals related to abortion. This practice includes providing religious services and counseling to their congregants on the principles held by the Church that is required as a member of the Clergy, and which appear to be or are criminalized by HB 5.

80. The right to receive and support quality reproductive healthcare for all members of the Church, including abortion procedures in certain circumstances, is a significant component of Episcopal practice, and FRFRA guarantees the right of Plaintiff and the Church's congregants to exercise the freedom to engage in religious practices without governmental interference absent a compelling state interest that is achieved through the least restrictive means for Plaintiff.

81. There is not a compelling state interest furthered by the Act, which runs contrary to the economic, medical, psychological, and many other interests of the state.

82. Even if it were found that the Act serves a compelling state interest, it is not the least restrictive means of furthering those interests. Plaintiff is required by their faith to counsel believers that abortion decisions require consideration of many factors the Act prohibits, and to advise in favor of abortion in numerous situations the Act makes illegal.

83. The State did not provide a religious exemption or provide exceptions in cases such as non-fatal fetal abnormalities, psychological disease or impairment, rape, incest, and/or trafficking, all of which would be factors under the Episcopal faith. Instead, the Act prohibits abortions after fifteen weeks of gestation with just two extremely narrow exceptions, which means there are many instances where HB 5 violates the religious beliefs and conduct of Plaintiff.

84. The Act's violation of Plaintiff's rights under FRFRA is causing and will continue to cause Plaintiff and the Church's congregants to suffer undue and actual hardship and irreparable injury.

85. Plaintiff has no adequate remedy at law to correct the continuing deprivation of rights.

COUNT II
VIOLATION OF RIGHT TO LIBERTY OF SPEECH UNDER ARTICLE 1, SECTION 4 OF THE FLORIDA CONSTITUTION

86. Plaintiff hereby reiterates and adopts each and every allegation in the preceding paragraphs as if fully set forth herein.

87. Article I, § 4 of the Constitution of the State of Florida provides, "Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press."

88. The threat of criminal liability for violations of the Act restrains Plaintiff's ability to speak freely about the fundamental tenets of the Episcopal faith and to counsel their congregants on matters of family planning, pregnancy and childbirth, and abortion in accordance with Plaintiff's sincerely held religious beliefs and those of their congregants.

89. The Act vests unbridled discretion in government officials to apply or not apply the penalties in a manner that restricts free speech, and subjects Plaintiff to violations of Episcopal religious tenets.

90. Defendants lack compelling, legitimate, significant, or even rational governmental interests to justify the Act's infringements of the right to free speech.

91. The Act, on its face and as applied, is not the least restrictive means to accomplish any permissible government purposes sought to be served by the law.

92. The Act does not leave open ample alternative channels of communication for Plaintiff.

93. The Act, on its face and as applied, is irrational and unreasonable and imposes unjustifiable and unreasonable restrictions on constitutionally protected speech.

94. The Act's violation of Plaintiff's right of free speech has caused, is causing, and will continue to cause Plaintiff and the Church's congregants to suffer undue and actual hardship and irreparable injury.

95. Plaintiff has no adequate remedy at law to correct the continuing deprivation of the cherished constitutional liberties.

COUNT III
VIOLATION OF RIGHT TO FREE EXERCISE AND ENJOYMENT OF RELIGION UNDER ARTICLE I, SECTION 3 OF THE FLORIDA CONSTITUTION

96. Plaintiff hereby reiterates and adopts each and every allegation in the preceding paragraphs as if fully set forth herein.

97. Article I, § 3 of the Florida Constitution provides, "There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof."

98. The Florida Constitution goes beyond the United States Constitution in its protection of religious freedom in that it adds that the free exercise of religion may not be penalized. Claims under Florida's Free Exercise Clause are analyzed the same as claims under the First Amendment.

99. Plaintiff and the members, congregants, and supporters of the Episcopal Church rely on Episcopal doctrine and ideals regarding abortion, which differs from the requirements of the Act. If the congregants and supporters of Plaintiff practice their religion regarding decisions related to abortion, they will be penalized by the State in violation of the Constitution.

100. The Act, on its face and as applied, targets Plaintiff's sincerely held religious beliefs regarding autonomy and the right to self-determination, reproductive health, and abortion which are informed by scripture, religious tradition, and reason as guided by the Episcopal faith. Plaintiff also has sincerely held religious beliefs to provide spiritual counsel and assistance to their congregants within the Church who seek such counsel and to do so from a religious viewpoint that aligns with the faith's religious beliefs and those of the congregants.

101. The Act, on its face and as applied, violates the rights of Plaintiff and Episcopal congregants by unconstitutionally establishing religion in the context of decisions regarding abortion, and prohibiting and penalizing the practice of Episcopal principles in matters of abortion.

102. Through the implementation of the Act, Defendants are establishing their religious views on when life begins and foisting them upon Plaintiff and the Church's congregants.

103. The Act further prohibits and penalizes Plaintiff and members of the Episcopal Church for practicing their beliefs and living in accordance with their faith.

104. The Act thus places Plaintiff and the Church's congregants in an irresolvable conflict between compliance with their religious beliefs and compliance with the Act.

105. The Act, on its face and as applied, is neither neutral nor generally applicable, but rather specifically and discriminatorily target the religious viewpoints of Plaintiff and Episcopal congregants.

106. The Act's purported interest in protecting life is unsubstantiated and thus does not constitute a compelling government interest.

107. No compelling government interests justify the burdens Defendants impose upon Plaintiff's and Episcopal congregants' rights to the free exercise of religion.

108. Even if the Act was supported by compelling government interests, they are not the least restrictive means to accomplish any permissible government purpose, which the Act seeks to serve.

109. The Act, both on its face and as applied, has failed to accommodate Plaintiff's sincerely held religious beliefs in the violation of their rights to free exercise of religion.

110. The Act's violation of Plaintiff's rights has caused, is causing, and will continue to cause Plaintiff and Episcopal congregants to suffer undue and actual hardship and irreparable injury.

111. Plaintiff has no adequate remedy at law to correct the continuing deprivation of the most cherished constitutional liberties.

COUNT IV
VIOLATION OF FREE SPEECH UNDER THE FIRST AMENDMENT

112. Plaintiff hereby reiterates and adopts each and every allegation in the preceding paragraphs as if fully set forth herein.

113. The Act is unconstitutional on its face and as applied under the Free Speech Clause of the First Amendment.

114. The Free Speech Clause, which is applied to the states through incorporation into the Fourteenth Amendment, states that the government may not "abridge the freedom of speech." U.S. Const. amend. I. Religious speech is one of the most highly valued types of speech under First Amendment doctrine. The freedom of religious speech is infringed when the government chills religious speech due to vagueness or suppresses religious speech without a compelling interest or narrow tailoring.

115. The threat of criminal liability for violations of the Act suppresses Plaintiff's ability to speak freely about the fundamental tenets of the Episcopal faith and to counsel their congregants

on matters of family planning, pregnancy and childbirth, and abortion in accordance with their sincerely held religious beliefs and those of the Church and congregants.

116. The Act is not narrowly tailored and does not leave open ample alternative channels of communication for Plaintiff.

117. The Act, on its face and as applied, is irrational and unreasonable and imposes unjustifiable and unreasonable restrictions on constitutionally protected speech.

118. The Constitution also protects against overbroad laws that chill speech.

119. The Act, on its face and as applied, unconstitutionally chills and abridges the right of Plaintiff to freely communicate the fundamental religious beliefs of the Episcopal faith pertaining to family planning, pregnancy and childbirth, and abortion. It serves no compelling interest and is not narrowly tailored.

120. The Act vests unbridled discretion in government officials to make the choice in applying the penalties pursuant to the Act such that it restricts free speech, and subjects Plaintiff to violations of state law and Episcopal religious tenets.

121. The void-for-vagueness doctrine in the context of the First Amendment "requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory treatment." The Act fails this test.

122. The Act is unconstitutional on its face, because it is void for vagueness by failing to specify the penalties for its violation and by failing to identify who could be prosecuted under its vague terms.

123. The Act fails to define the term "actively participates" and thus criminalizes behavior about which those of ordinary intelligence and experience would have to guess if and/or when it applies to them.

124. The Act fails to make clear if those who provide religious counseling regarding the permissibility of abortion under Episcopal law or who support a woman or a girl's decision to terminate her pregnancy beyond the narrow parameters of HB 5, would be subject to prosecution for "actively" participating in an abortion.

125. By failing to specify the penalties for violation of the Act, and who would be subject to such penalties, the Act leaves Plaintiff and other members of the clergy in the dark as to the potential consequences that could befall them if and when they exercise their religious beliefs, which has a chilling effect upon the freedom of religion.

126. The Act, on its face and as applied, is impermissibly vague as it requires those who could be subject to its penalties, as well as government and law enforcement officials tasked with enforcing its penalties, to guess at their meaning and differ as to their application, severely burdening and chilling the free speech of Plaintiff and all clergy who share certain religious beliefs.

127. Defendants lack compelling, legitimate, significant, or even rational governmental interests to justify the Act's infringement on the right to free speech.

128. The Act, on its face and as applied, neither serves a compelling interest nor is narrowly tailored. The determination that a fetus becomes a human being at fifteen weeks of gestation is irrational, and there is nothing in the Act which explains why this date has been chosen to begin the imposition of harsh criminal penalties. Nor does the Act provide for accommodation for the many Episcopal clergy and believers who highly value the life and well-being of the pregnant mother or girl and who do not believe that "life" begins at 15 weeks.

129. The Act's violation of Plaintiff's right of religious speech has caused, is causing, and will continue to cause Plaintiff to suffer undue and actual hardship and irreparable injury.

130. Plaintiff has no adequate remedy at law to correct the continuing deprivation of their right to the freedom of religious speech.

COUNT V
VIOLATION OF THE FREE EXERCISE CLAUSE UNDER THE FIRST AMENDMENT

131. Plaintiff hereby reiterates and adopts each and every allegation in the preceding paragraphs as if fully set forth herein.

132. The Act is unconstitutional on its face and as applied under the Free Exercise Clause. As described herein, and incorporated by reference, the Act violates the right of the Plaintiff, as well as the Church's congregants and supporters, their families, and members of the Episcopal faith, from exercising their rights to freedom of religion in the most intimate decisions of their lives. By harming and threatening the Episcopal faith, and the rights of Episcopal women and girls, the Act does irreparable harm and burdens Plaintiff's religious beliefs, speech, and conduct as well as the members of the Episcopal faith.

133. The Free Exercise Clause of the First Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment, provides that governments may "make no law prohibiting the free exercise [of religion]." U.S. Const. amend. I.

134. Plaintiff holds sincerely held religious beliefs to provide spiritual counsel and assistance to congregants and believers within the Church who seek such counsel.

135. Plaintiff also has sincerely held religious beliefs to engage in counseling honoring congregants' autonomy and right to self-determination, which includes the right to reach informed decisions about the termination of pregnancy and to act upon them beyond the narrow strictures of HB 5. The Free Exercise Clause permits Plaintiff to provide counseling and advice from a

viewpoint that aligns with their sincerely held Episcopal religious beliefs and those of the congregants and believers who seek their guidance.

136. The Act, on its face and as applied, targets Plaintiff's sincerely held religious beliefs regarding the value of the life of the mother, bodily autonomy, and the right to self-determination, reproductive health, and abortion. These beliefs are informed by the Church's interpretation of religious scripture, tradition, and God-given reason, which are central components of the faith and guide how decisions throughout one's life should be processed. The Act causes a direct and immediate conflict with Plaintiff's religious beliefs, speech, and conduct by prohibiting Plaintiff from providing and receiving religious counseling that is consistent with their religious beliefs.

137. The Act, on its face and as applied, impermissibly burdens Plaintiff's sincerely held religious beliefs, speech, and conduct. The Act has also forced Plaintiff to choose between the fundamental teachings of their sincerely held religious beliefs and criminal penalties.

138. The Act places Plaintiff in an irresolvable conflict between compliance with their sincerely held religious beliefs and conduct and compliance with the Act.

139. The Act, on its face and as applied, is neither neutral nor generally applicable, but rather specifically and discriminatorily targets the religious speech, beliefs, and viewpoint of Plaintiff and those who share their beliefs in autonomy and self-determination and who treat decisions to terminate a pregnancy as fundamental to those rights.

COUNT VI
VIOLATION OF THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT

140. Plaintiff hereby reiterates and adopts each and every allegation in the preceding paragraphs as if fully set forth herein.

141. The Establishment Clause under the First Amendment provides, in relevant part, that "Congress shall make no law respecting an establishment of religion." U.S. Const. amend. I.

142. The prohibition on abortions after fifteen weeks gestation has no secular basis and is harmful to the interests of a wide variety of believers and citizens in Florida, including Plaintiff.

143. Women, girls, and others who terminate their pregnancy after fifteen weeks from the LMP often do so because they have health conditions that are caused or exacerbated by pregnancy or receive a diagnosis of a serious fetal condition or a serious medical condition of their own which makes carrying a fetus to term risky and medically inadvisable. Many fetal conditions are not able to be identified until after fifteen weeks from the LMP, but these conditions are not accommodated by the Act's very limited exceptions.

144. The Act further does not recognize maternal well-being or psychological injury to the pregnant woman or girl as a weighty factor to be considered prior to an abortion, in violation of Plaintiff's faith and many other faiths. Nor does it provide for exceptions for incest, rape, or trafficking, again in conflict with many faiths including Plaintiff's. Rather, the Act reflects the views of a minority of Americans, whose faith rejects abortion and who seek, through legislation, to deny religious freedom on the issue of abortion to all others, under the notion that only they are capable of understanding God's law and judgments and the religious views of all others are wrong and thus not entitled to respect or constitutional protections.

145. The Act codifies the narrow religious views of few as the law of the State of Florida, which results in irreparable harm to Plaintiff and all others who espouse a different religious view.

146. Evidence of the Florida lawmakers' intent to impose a religion on the state is their failure to even consider their obligations under the Florida Religious Freedom Restoration Act, which requires the state to accommodate religious believers and institutions from Florida state laws that substantially burden their religious belief, speech, and conduct. There is no question that HB 5 substantially burdens Plaintiff's religious belief, speech, and conduct. The failure to include

accommodation for the religious believers whose faith is suppressed by HB 5 is indicative of the state's illicit intent to impose a faith perspective on the citizens of Florida.

147. The Episcopal Church has supported efforts to protect abortion rights, viewing them as essential to protecting the rights and lives of women and girls. Members and supporters of the Episcopal faith have also been among those who strongly believe in the principle of the separation of Church and state, which is violated by the Act.

148. Plaintiff's religious belief, as well as those of the congregants, supporters, and families of the Episcopal faith, does not require imposing religious views about when life begins in the context of receiving reproductive healthcare procedures such as abortions. In fact, as mentioned, the Episcopal Church unequivocally opposes any state or federal legislation that would abridge or deny the right of families, girls, and women to reach informed decisions about reproductive healthcare and to act upon them.

149. The Act, as written and applied, establishes a religion in the context of decisions regarding abortion and pregnant women and girls' well-being.

150. The Act is not justified by any compelling, legitimate, or rational justification. The purported "protection of life" with its thumb heavily on the side of the fetus over the pregnant woman or girl and the 15-week cutoff are devoid of economic, scientific, or medical merit.

151. The Act imposes on Florida the danger of the unity of the state with a singular minority religion, which the First Amendment's Establishment Clause was intended to deter. As the First Amendment's drafter, James Madison, put it: "Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects?" See James Madison, Memorial and Remonstrance Against Religious Assessments (June 20, 1785), in 5 THE FOUNDERS'

CONSTITUTION 82 (P. Kurland & R. Lerner eds. 1986). Plaintiff brings this lawsuit against Florida to ensure that religious diversity and mutual respect are restored to the state regarding when and how life is valued and begins.

152. Florida lawmakers and the Governor, through the Act, have imposed on the state the narrow views of a minority of believers without accommodation for any other religious believer.

153. The Act's violation of the separation of church and state has caused, is causing, and will continue to cause Plaintiff to suffer undue and actual hardship and irreparable injury.

154. An injunction of the Act is required to avoid the Act's violation of the Establishment Clause of the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

A. Issue preliminary and permanent injunctive relief restraining the enforcement, operation and/or execution of HB 5 by enjoining Defendants, their officers, agents, servants and successors, from enforcing, threatening to enforce or otherwise applying the provisions of the Act in Florida due to its violation of RFRA.

B. Issue temporary and permanent injunctive relief restraining the enforcement, operation and/or execution of HB 5 by enjoining Defendants, their officers, agents, servants, employees, appointees, or successors, as well as those in active concert or participation with any of them, from enforcing, threatening to enforce, or otherwise applying the provisions of the Act in Florida due to its violation of the rights of Plaintiff as well as Episcopal members, congregants, supporters, and families as provided in the First and Fourteenth Amendments of the United States Constitution and Article I, sections 3 and 4 of the Florida Constitution

C. That this Court render a declaratory judgment declaring that:

i. HB 5 violates the Establishment Clause of the United States Constitution by discriminating against Plaintiff and their religious beliefs on abortion under the Episcopal faith and is therefore void, unenforceable, invalid, and of no legal effect.

ii. HB 5 violates FRFRA and therefore is invalid, unconstitutional, and of no legal force and effect.

iii. HB 5 violates the rights of Plaintiff and Episcopal congregants, supporters and their families, as well as all others to be free to exercise their religious, spiritual and/or ethical values and beliefs, free from government intrusion; and to find that HB 5 violates the establishment and the free exercise clause of the Florida Constitution as expressed in Article I, sections 3 and 4 of the Florida Constitution and is therefore void, unenforceable, invalid and of no legal effect.

iv. HB 5 is invalid on its face under the United States Constitution's First Amendment and permanently enjoin HB 5.

v. HB 5 violates the constitutional and statutory rights of Plaintiff as a member of the clergy within the Episcopal Church regarding abortion beliefs and Plaintiff's ability to advise and counsel women and girls within the congregation on the Church's teachings in violation of the Free Speech and Free Exercise Clauses under the First Amendment of the United States Constitution.

vi. HB 5 violates the Establishment Clause under the First Amendment of the United States Constitution and is therefore void, unenforceable, invalid and of no legal effect.

D. Grant Plaintiff's costs and attorney's fees.

E. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

By: */s/ Danielle Moriber*
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VERIFICATION

I, John/Jane Doe, am over the age of 18 and the Plaintiff in this action. Unless otherwise indicated, I have personal knowledge of the facts set forth herein, the statements and allegations about me or which I make in this Verified Complaint are true and correct, and if called upon to testify, I would and could do so competently.

Pursuant to 28 U.S.C. § 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct to the best of my knowledge.

Executed this 31 day of July, 2022.

JP

John/Jane Doe
Date: 7/31/22