

**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT COURT  
SANGAMON COUNTY**

<b>SPRINGFIELD RIGHT TO LIFE, <i>et al.</i>,</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>Case No. 2017-MR-1032</b>
	)	
<b>v.</b>	)	
	)	
<b>FELICIA NORWOOD, Director of the Department of Healthcare and Family Services, <i>et al.</i>,</b>	)	<b>Hon. Jennifer M. Ascher,</b>
	)	<b>Judge Presiding</b>
	)	
<b>Defendants.</b>	)	

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE VERIFIED  
AMENDED TAXPAYER COMPLAINT**

Plaintiffs, by their undersigned counsel, move that they be allowed leave to file their Verified Amended Taxpayer Complaint, and state in further support as follows:

1. Plaintiffs filed their Complaint on December 6, 2017.
2. Defendants filed their 2-619.1 Motion to Dismiss on December 15, 2017.
3. Plaintiffs' proposed Verified Amended Complaint, a clean copy of which is attached as Exhibit A and a redlined copy as Exhibit B, includes a number of minor additions and edits over the original Complaint. The proposed pleading adds and adjusts the parties Plaintiff; adds 3 brief additional allegations, 2 of which arose at the time of or after the filing of the Complaint; includes renumbered paragraphs to conform to the new parties and allegations; and is verified, in order to allow the Verified Amended Complaint to support Plaintiffs' request for temporary injunctive relief.
4. In order to expedite the proceedings, Plaintiffs respectfully request that the Court consider Defendants' 2-619.1 Motion to Dismiss, as if it were filed against the proposed Verified Amended Complaint. Plaintiffs do not believe that the proposed pleading materially alters the briefing or arguments on Defendants' Motion.

5. Illinois Courts freely and liberally allow Plaintiffs to amend their complaint. *See, e.g., Loyola Academy v. S&S Roof Maintenance, Inc.*, 146 Ill. 2d 263, 273 (1992), *Village of South Elgin v. Waste Management of Illinois, Inc.*, 348 Ill. App. 3d 929, 939-40 (1st Dist. 2004).

6. The proposed pleading is the first amendment and is made less than three weeks after the filing of the Complaint. This case is still in the pleading stage.

7. There is no prejudice or surprise to Defendants, as the amendments proposed are simple and uncontroversial, and no delay will be introduced, as Plaintiffs are requesting that the pending Motion to Dismiss be construed as against the verified amended pleading.

8. Defense counsel informed undersigned counsel this evening, after review of the Motion, that Defendants do not plan to object to it.

WHEREFORE, Plaintiffs move that they be allowed leave to file their Verified Amended Taxpayer Complaint, attached hereto as Exhibit A, and for all other relief on the premises.

Respectfully submitted,

/s/Peter Breen  
*One of Plaintiffs' Attorneys*

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# EXHIBIT A

**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT COURT  
SANGAMON COUNTY**

**SPRINGFIELD RIGHT TO LIFE; LAKE COUNTY )  
RIGHT TO LIFE COMMITTEE, INC.; KNOX )  
COUNTY RIGHT TO LIFE, NFP; MORGAN )  
COUNTY RIGHT TO LIFE, INC., NFP; HENRY )  
COUNTY RIGHT TO LIFE, INC.; CLINTON )  
COUNTY CITIZENS FOR LIFE; RIGHT TO LIFE )  
OF ADAMS COUNTY, INC.; FAITH AND )  
FREEDOM FAMILY MINISTRY, NFP; PRO-LIFE )  
ACTION LEAGUE, INC.; DIOCESE OF )  
SPRINGFIELD-IN-ILLINOIS; ILLINOIS RIGHT )  
TO LIFE ACTION; ILLINOIS FEDERATION FOR )  
RIGHT TO LIFE, on behalf of certain of their )  
Illinois taxpayer members, and )**

**Case No. 2017-MR-1032**

**REP. BARBARA WHEELER; SEN. DAN )  
MCCONCHIE; REP. MARK BATINICK; SEN. )  
KYLE MCCARTER; REP. STEVE REICK; SEN. )  
PAUL SCHIMPF; REP. KEITH WHEELER; SEN. )  
DALE FOWLER; REP. CHARLIE MEIER; SEN. )  
SAM MCCANN; REP. JEANNE IVES; AND SEN. )  
NEIL ANDERSON, as Illinois taxpayers, )**

**Hon. Jennifer M. Ascher,  
Judge Presiding**

**Plaintiffs,**

**v.**

**FELICIA NORWOOD, Director of the Department )  
of Healthcare and Family Services; MICHAEL )  
HOFFMAN, Acting Director of the Department of )  
Central Management Services; MICHAEL )  
FRERICHS, Treasurer of the State of Illinois; )  
SUSANA MENDOZA, Comptroller of the State of )  
Illinois,**

**Defendants.**

**VERIFIED AMENDED TAXPAYER COMPLAINT TO RESTRAIN AND  
ENJOIN THE DISBURSEMENT OF PUBLIC FUNDS**

Plaintiffs, by their undersigned counsel, complain of Defendants as follows:

1. This taxpayer Complaint challenges the imminent illegal expenditure of general revenue funds by the Illinois state government, through the state’s Medicaid and employee health insurance plans, under House Bill 40 (“HB 40”). HB 40 strips away the current bar in Illinois law against the funding of elective abortions<sup>1</sup> by the state’s Medicaid and employee health insurance programs. HB 40 further affirmatively mandates coverage by Medicaid for all “reproductive health care that is otherwise legal.”

2. Plaintiffs present two primary claims in this Complaint: First, no funds may flow to support the procedures newly allowed or mandated under HB 40, because the General Assembly has not validly appropriated funds or estimated revenues to cover their cost, as required by the Illinois Constitution, Art. VIII, § 2(b). Second, House Bill 40 cannot be effective prior to June 1, 2018, because it did not pass out of the Senate until September 25, 2017, well after the May 31 deadline imposed for an early effective date under the Illinois Constitution, Art. IV, § 10, and the Effective Date of Laws Act, 5 ILCS 75/2.

**I. Plaintiffs.**

3. SPRINGFIELD RIGHT TO LIFE is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

4. LAKE COUNTY RIGHT TO LIFE COMMITTEE, INC., is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit

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<sup>1</sup> “Elective abortions” as used herein means abortions performed for reasons other than (1) to preserve the life of the mother or (2) in cases where the pregnancy results from an act of rape or incest.

here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

5. KNOX COUNTY RIGHT TO LIFE, NFP, is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

6. MORGAN COUNTY RIGHT TO LIFE, INC., NFP, is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

7. HENRY COUNTY RIGHT TO LIFE, INC., is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

8. CLINTON COUNTY CITIZENS FOR LIFE, is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

9. RIGHT TO LIFE OF ADAMS COUNTY, INC., is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

10. FAITH AND FREEDOM FAMILY MINISTRY, NFP, is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

11. PRO-LIFE ACTION LEAGUE, INC., is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

12. DIOCESE OF SPRINGFIELD-IN-ILLINOIS is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life, with a mission that includes “making Christ visible in our world through worship, proclamation of the Word and service to all God’s people.” The DIOCESE OF SPRINGFIELD brings suit here on behalf of its many thousands of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

13. ILLINOIS RIGHT TO LIFE ACTION is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its thousands of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

14. ILLINOIS FEDERATION FOR RIGHT TO LIFE is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its thousands of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

15. REPRESENTATIVE BARBARA WHEELER is a resident of McHenry County, Illinois, and an Illinois taxpayer. She represents the 64th District in the Illinois House, and brings suit here as a taxpayer.

16. SENATOR DAN MCCONCHIE is a resident of McHenry County, Illinois, and an Illinois taxpayer. He represents the 26th District in the Illinois Senate, and brings suit here as a taxpayer.

17. REPRESENTATIVE MARK BATINICK is a resident of Will County, Illinois, and an Illinois taxpayer. He represents the 97th District in the Illinois House, and brings suit here as a taxpayer.

18. SENATOR KYLE MCCARTER is a resident of St. Clair County, Illinois, and an Illinois taxpayer. He represents the 54th District in the Illinois Senate, and brings suit here as a taxpayer.

19. REPRESENTATIVE STEVE REICK is a resident of McHenry County, Illinois, and an Illinois taxpayer. He represents the 63rd District in the Illinois House, and brings suit here as a taxpayer.

20. SENATOR PAUL SCHIMPF is a resident of Monroe County, Illinois, and an Illinois taxpayer. He represents the 58th District in the Illinois Senate, and brings suit here as a taxpayer.

21. REPRESENTATIVE KEITH WHEELER is a resident of Kendall County, Illinois, and an Illinois taxpayer. He represents the 50th District in the Illinois House, and brings suit here as a taxpayer.

22. SENATOR DALE FOWLER is a resident of Saline County, Illinois, and an Illinois taxpayer. He represents the 59th District in the Illinois Senate, and brings suit here as a taxpayer.

23. REPRESENTATIVE CHARLIE MEIER is a resident of Washington County, Illinois, and an Illinois taxpayer. He represents the 108th District in the Illinois House, and brings suit here as a taxpayer.

24. SENATOR SAM MCCANN is a resident of Macoupin County, Illinois, and an Illinois taxpayer. He represents the 50th District in the Illinois Senate, and brings suit here as a taxpayer.

25. REPRESENTATIVE JEANNE IVES is a resident of DuPage County, Illinois, and an Illinois taxpayer. She represents the 42nd District in the Illinois House, and brings suit here as a taxpayer.

26. SENATOR NEIL ANDERSON is a resident of Rock Island County, Illinois, and an Illinois taxpayer. He represents the 36th District in the Illinois Senate, and brings suit here as a taxpayer.

27. All Plaintiffs are Illinois taxpayers or represent Illinois taxpayers, who have paid and continue to expect to pay Illinois state taxes. As Illinois taxpayers, Plaintiffs have an equitable ownership interest in public funds and will be liable to replenish the public treasury for the unlawful depletion of public funds to prepare for and to pay for the new services mandated and allowed by HB 40.

## **II. Defendants.**

28. FELICIA NORWOOD is the Director of the Department of Healthcare and Family Services, which administers the state's Medical Assistance Program and would authorize

payments out of general revenue funds for the elective abortions and other services mandated by HB 40. She is sued in her official capacity.

29. MICHAEL HOFFMAN is the Acting Director of the Department of Central Management Services, which administers the state's employee and retiree health insurance programs and would authorize payments out of general revenue funds for the elective abortions and other services mandated by HB 40. He is sued in his official capacity.

30. MICHAEL FRERICHS is the Treasurer of the State of Illinois. He is sued in his official capacity.

31. SUSANA MENDOZA is the Comptroller of the State of Illinois. She is sued in her official capacity.

### **III. Jurisdiction and Venue.**

32. This Court has subject matter and personal jurisdiction over this lawsuit, which challenges the effectiveness of an Illinois statute under the laws and Constitution of this state and the lawfulness of any spending pursuant to the statute. Plaintiffs seek injunctive relief pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/11-301 & 5/11-303, the Illinois Constitution, and under this Court's common law equitable powers.

33. Venue lies in Sangamon County as the government officials sued here in their official capacities work or have principal offices here.

### **IV. Projected Fiscal Impact of HB 40.**

34. Currently, the state's abortion providers perform approximately 40,000 abortions per year, nearly all of which are paid for by sources other than state taxpayers. *See*, Abortion Statistics, Ill. Dep't of Public Health, found at <http://www.dph.illinois.gov/data-statistics/vital-statistics/abortion-statistics>.

35. Approximately 75% of pregnant women obtaining abortions have an income below 200% of Federal Poverty Level, according to the Guttmacher Institute, the former research arm of Planned Parenthood.<sup>2</sup>

36. The State of Illinois provides that pregnant women with incomes up to 213% of Federal Poverty Level are presumptively eligible for Medicaid, through the state's "Moms & Babies" program.<sup>3</sup>

37. Under HB 40, at least 20,000 to 30,000 or more of the state's annual 40,000 abortions would become eligible for and be paid for by Medicaid.

38. According to data from the Illinois Department of Healthcare and Family Services, the state's average cost per abortion over the past five years is between \$750 and \$1,000.

39. HB 40 would require the people of Illinois to pay tens of millions of dollars for elective abortions, with none of the elective abortion expenses in HB 40 eligible for the standard 50% Medicaid match, which the U.S. government provides the state for federally recognized medical procedures.

## **V. HB 40 Lacks the Appropriation Required for Funding Its Services.**

40. The framers of the 1970 Illinois Constitution added to the Legislative Article two complimentary provisions on the expenditure of state taxpayer funds: first, they affirmed the exclusive power of the General Assembly to appropriate public funds; and second, they imposed

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<sup>2</sup> Jerman J, Jones RK and Onda T, *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008*, New York: Guttmacher Institute, 2016, <https://www.guttmacher.org/report/characteristics-us-abortion-patients-2014>.

<sup>3</sup> Illinois considers a pregnant woman's unborn child as a person for presumptive eligibility determination under Medicaid, such that a pregnant woman has a family size of at least 2 people. See, <http://www.dhs.state.il.us/page.aspx?item=14091>.

the specific constraint of a balanced budget on the General Assembly, by requiring that the General Assembly estimate available funds and appropriate only within the bounds of that estimate. Art. VIII, § 2(b).

41. HB 40 purports to provide new entitlements in the state Medicaid and employee health insurance programs, but no new or supplemental appropriation of funds was enacted by the General Assembly to provide the additional general revenue funds that would be required to be expended to support that entitlement.

42. Fiscal Year 2018 appropriations of general revenue funds for existing services under Medicaid and the state health insurance program were enacted on July 6, 2017. P.A. 100-21. Those appropriations, which cover the fiscal year from July 1, 2017 to June 30, 2018, did not account for or include amounts to support HB 40's tens of millions in new spending.

43. The General Assembly also did not adopt a revenue estimate, estimating funds available, to pay for HB 40.<sup>4</sup> Because the General Assembly has not adopted such an estimate, any putative appropriations alleged to pay for HB 40's services would be invalid, in violation of the Illinois Constitution's Balanced Budget requirement. Art. VIII, § 2(b).

44. And in fact, there are no funds available for HB 40, as the appropriations in SB 6 are already approximately \$1.7 billion greater than actual expected revenues. *See, e.g.*, "Illinois Economic and Fiscal Policy Report," 10/12/17, Governor's Office of Management and Budget, [https://www.illinois.gov/gov/budget/Documents/Economic%20and%20Fiscal%20Policy%20Reports/FY%202017/Economic\\_and\\_%20Fiscal\\_%20Policy\\_%20Report\\_10.12.17.pdf](https://www.illinois.gov/gov/budget/Documents/Economic%20and%20Fiscal%20Policy%20Reports/FY%202017/Economic_and_%20Fiscal_%20Policy_%20Report_10.12.17.pdf).

45. As a result, any and all spending pursuant to HB 40 is prohibited by law.

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<sup>4</sup> The method of adoption for that revenue estimate, a joint resolution of the House and Senate, is prescribed by the Commission on Government Forecasting and Accountability Act, 25 ILCS 155/4(a).

**VI. HB 40 Passed the Illinois Senate, and Both Houses of the General Assembly, on September 25, 2017.**

46. HB 40 received a simple majority vote in the Illinois House on April 25, 2017, passed out of the House, and arrived in the Senate on April 26.

47. HB 40 received a simple majority vote in the Illinois Senate on May 10. However, on that same day, Senator Don Harmon, who voted in favor of HB40, filed a motion to reconsider the vote.

48. On September 25, 2017, Sen. Harmon withdrew the motion to reconsider. HB 40 passed out of the Senate that day and was sent to the governor.

49. The governor signed HB 40 on September 28.

50. A motion to reconsider suspends all action on a particular vote and renders the vote ineffective, until the motion is resolved. *See, Mason's Manual of Leg. Pro.* (2010), § 467(1); Ill. Sen. R. 12-2 (adopting *Mason's*); *Ceresa v. City of Peru*, 133 Ill. App. 2d 748, 753 (3d Dist. 1971).

51. A bill is not finally passed by the Senate until the bill is out of the Senate's possession. *See, Mason's Manual*, § 737(5) "Passage of Bills" ("When a house has passed a bill and it is out of that body's possession . . . jurisdiction of the bill has been lost and it has been finally passed."). And a bill subject to a motion to reconsider cannot "pass out of the possession of the Senate until after the motion has been decided or withdrawn." Ill. Sen. R. 7-15.

52. A bill subject to a motion to reconsider is thus not finally passed until after the motion is resolved. *See also, Mason's Manual*, § 737(6) "Passage of Bills" ("When a bill has been voted upon favorably by both houses, but a motion to reconsider its action in passing the bill is pending in the house last acting on the bill and the bill is still in its possession, the bill has not been finally passed by both houses."). Had Sen. Harmon's motion to reconsider not been

withdrawn or otherwise resolved, HB 40 would have died at the conclusion of the 100th General Assembly. *See*, Ill. Const. Art. IV, § 5.

53. The motion to reconsider the Senate vote on HB 40 was not resolved until September 25, 2017. HB 40 was thus not passed by the Senate, and not passed by both houses of the General Assembly, until September 25, 2017.

54. The Illinois General Assembly website also reflects September 25, 2017 as the date that HB 40 “Passed Both Houses.” Bill Status of HB 40, found at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=40&GAID=14&GA=100&DocTypeID=HB&LegID=99242&SessionID=91>.

## **VII. HB 40 Cannot Be Effective Prior to June 1, 2018.**

55. The Illinois Constitution provides that, “A bill passed after May 31 shall not become effective prior to June 1 of the next calendar year unless the General Assembly by the vote of three-fifths of the members elected to each house provides for an earlier effective date.” Art. IV, § 10. HB 40 was passed after May 31, and therefore cannot be effective prior to June 1, 2018, per the Illinois Constitution.

56. The Effective Date of Laws Act, 5 ILCS 75/3, provides that “a bill is ‘passed’ at the time of its final legislative action prior to presentation to the Governor pursuant to paragraph (a) of Section 9 of Article IV of the Constitution.”

57. Section 9(a) of Article IV of the Illinois Constitution provides that, “Every bill passed by the General Assembly shall be presented to the Governor within 30 calendar days after its passage.”

58. HB 40 was not ready to be, and could not have been, presented to the governor until after final passage on September 25, 2017.<sup>5</sup> On that date, the 30-day presentation clock began to run. Under the Effective Date of Laws Act, HB 40 passed on September 25, 2017.

59. The Effective Date of Laws Act, 5 ILCS 75/2, provides that, “A bill passed after May 31 of a calendar year shall become effective on June 1 of the next calendar year unless the General Assembly by a vote of three-fifths of the members elected to each house provides for an earlier effective date in the terms of the bill . . . .” HB 40 was passed after May 31, and therefore cannot be effective prior to June 1, 2018, per the Effective Date of Laws Act.

60. Plaintiffs have made inquiries of the Department of Healthcare and Family Services to seek reassurances that the Department would not implement HB 40 prior to June 1, 2018. These inquiries have not been answered, and no such reassurance has been provided. The Attorney General’s Office has informed Plaintiffs’ counsel that the Department views January 1, 2018 as the effective date of the law and intends to process, in due course, any claims for reimbursement that may be received by the agency for elective abortions and other procedures performed on or after that date. Plaintiffs further believe and are informed that all of the Defendants believe that HB 40 is effective January 1, 2018, and are preparing to implement HB 40, beginning on January 1, 2018, despite the constitutional and statutory requirement that HB 40 cannot be effective prior to June 1, 2018 and despite the lack of any appropriation to implement of HB 40.

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<sup>5</sup> Otherwise, the Senate has repeatedly acted unconstitutionally by following its Rules on motions to reconsider, and not sending bills to the governor that have not finally passed. *See, e.g.,* Bill Status, Senate Bill 1, (5/31/17 “Senate Concurs,” 5/31/17 “Motion Filed to Reconsider Vote,” 7/31/17 “Motion Withdrawn,” 7/31/17 “Passed Both Houses,” 7/31/17 “Sent to the Governor”), found at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=1&GAID=14&GA=100&DocTypeID=SB&LegID=98844&SessionID=91&SpecSess=0>.

**Count I**  
**Violation of the Appropriations Clause & Balanced Budget Requirement**  
**of the Illinois Constitution, Art. VIII, § 2(b)**

1.- 60. Paragraphs 1 through 60 are realleged as if fully set forth herein.

61. The General Assembly has not appropriated any funds for the new services in HB 40, as required by the Illinois Constitution's Appropriations Clause, Art. VIII, § 2(b).

62. Any Fiscal Year 2018 appropriations arguably supporting HB 40's elective abortions and other services were made without adopting the estimate of revenues required by the Illinois Constitution's Balanced Budget requirement, Art. VIII, § 2(b), and provided in the Commission on Government Forecasting and Accountability Act, 25 ILCS 155/4(a).

63. Any Fiscal Year 2018 appropriations arguably supporting HB 40's elective abortions and other services would be greater than revenues available, in violation of the Illinois Constitution's Balanced Budget requirement, Art. VIII, § 2(b).

64. As a result, any and all spending pursuant to HB 40 is prohibited by law.

65. Plaintiffs are interested and have standing to sue here as taxpayers of the State of Illinois, to enjoin the imminent unlawful expenditure of funds under HB 40.

66. Despite the lack of a valid appropriation and revenue estimate, Defendants will illegally expend state dollars to carry out the terms of HB 40, in violation of the Illinois Constitution, Art. VIII, § 2(b).

67. The Code of Civil Procedure, at 735 ILCS 5/11-301, provides that, "An action to restrain and enjoin the disbursement of public funds by any officer or officers of the State government may be maintained either by the Attorney General or by any citizen and taxpayer of the State." And at 735 ILCS 5/11-303 provides that, "Such action, when prosecuted by a citizen and taxpayer of the State, shall be commenced by petition for leave to file an action to restrain

and enjoin the defendant or defendants from disbursing the public funds of the State.” Such a petition has been filed, presented, heard, and adjudicated.

68. Plaintiffs will be substantially affected, especially damaged, and irreparably harmed by the illegal expenditure of general revenue funds, for the loss of which they have no adequate remedy at law.

69. The equities strongly favor Plaintiffs as against Defendants, particularly as the only acts to be abated or enjoined are illegal acts.

WHEREFORE, Plaintiffs pray that the Court:

a. Enjoin Defendants from expending any funds in any way preparing for or in furtherance of elective abortions, or any other previously unfunded procedures that are newly allowed or required to be funded by HB 40; and

b. Grant all other relief to which Plaintiffs may be entitled on the premises.

**Count II**  
**Violation of the Illinois Constitution, Art. IV, § 10, &**  
**Effective Date of Laws Act, 5 ILCS 75/2**

1.-69. Paragraphs 1 through 69 are realleged as if fully set forth herein.

70. HB 40 did not pass the General Assembly on or before May 31, 2017.

71. HB 40 thus cannot be effective before June 1, 2018, per the Illinois Constitution, Art. IV, § 10, and the Effective Date of Laws Act, 5 ILCS 75/2.

72. Plaintiffs are interested and have standing to sue here as taxpayers of the State of Illinois, to enjoin the imminent unlawful expenditure of funds under House Bill 40.

73. Despite its June 1, 2018 effective date, Defendants will illegally expend state dollars to prepare for and to provide elective abortions, and other new procedures allowed or mandated by HB 40.

74. The Code of Civil Procedure, at 735 ILCS 5/11-301, provides that, “An action to restrain and enjoin the disbursement of public funds by any officer or officers of the State government may be maintained either by the Attorney General or by any citizen and taxpayer of the State.” And at 735 ILCS 5/11-303 provides that, “Such action, when prosecuted by a citizen and taxpayer of the State, shall be commenced by petition for leave to file an action to restrain and enjoin the defendant or defendants from disbursing the public funds of the State.” Such a petition has been filed, presented, heard, and adjudicated.

75. Plaintiffs will be substantially affected, especially damaged, and irreparably harmed by the illegal expenditure of general revenue funds, for the loss of which they have no adequate remedy at law.

76. The equities strongly favor Plaintiffs as against Defendants, particularly as the only acts to be abated or enjoined are illegal acts.

WHEREFORE, Plaintiffs pray that the Court:

- a. Enjoin Defendants from expending any funds in any way to prepare for funding or to fund elective abortions, or any other previously unfunded procedures that are newly allowed or required to be funded by HB 40, until at least June 1, 2018; and
- b. Grant all other relief to which Plaintiffs may be entitled on the premises.

Respectfully submitted,

/s/Peter Breen

*One of the attorneys for Plaintiffs*

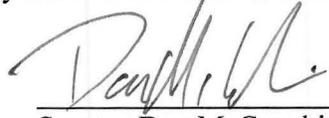
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(217) 523-4569  
*Counsel for Plaintiff*  
*Diocese of Springfield-in-Illinois*

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

A handwritten signature in black ink, appearing to read "Dan McConchie", written over a horizontal line.

Senator Dan McConchie

# EXHIBIT B

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT COURT  
SANGAMON COUNTY

SPRINGFIELD RIGHT TO LIFE; LAKE COUNTY )  
RIGHT TO LIFE COMMITTEE, INC.; KNOX )  
COUNTY RIGHT TO LIFE, NFP; MORGAN )  
COUNTY RIGHT TO LIFE, INC., NFP; HENRY )  
COUNTY RIGHT TO LIFE, INC.; CLINTON )  
COUNTY CITIZENS FOR LIFE; RIGHT TO LIFE )  
OF ADAMS COUNTY, INC.; FAITH AND )  
FREEDOM FAMILY MINISTRY, NFP; PRO-LIFE )  
ACTION LEAGUE, INC.; DIOCESE OF )  
SPRINGFIELD-IN-ILLINOIS; ILLINOIS RIGHT )  
TO LIFE ACTION; ILLINOIS FEDERATION FOR )  
RIGHT TO LIFE, on behalf of certain of their )  
Illinois taxpayer members, and )

Case No. 2017-MR-1032

Hon. Jennifer M. Ascher,  
Judge Presiding

REP. BARBARA WHEELER; SEN. DAN )  
MCCONCHIE; REP. MARK BATINICK; SEN. )  
KYLE MCCARTER; REP. STEVE REICK; SEN. )  
PAUL SCHIMPF; REP. KEITH WHEELER; **and** )  
SEN. DALE FOWLER; REP. CHARLIE MEIER; )  
SEN. SAM MCCANN; REP. JEANNE IVES; AND )  
SEN. NEIL ANDERSON, as Illinois taxpayers, )

Plaintiffs, )

v. )

FELICIA NORWOOD, Director of the Department )  
of Healthcare and Family Services; MICHAEL )  
HOFFMAN, Acting Director of the Department of )  
Central Management Services; MICHAEL )  
FRERICHS, Treasurer of the State of Illinois; )  
SUSANA MENDOZA, Comptroller of the State of )  
Illinois, )

Defendants.

VERIFIED AMENDED TAXPAYER COMPLAINT TO RESTRAIN AND  
-ENJOIN THE  
DISBURSEMENT OF PUBLIC FUNDS

Plaintiffs, by their undersigned counsel, complain of Defendants as follows:

1. This taxpayer Complaint challenges the imminent illegal expenditure of general revenue funds by the Illinois state government, through the state’s Medicaid and employee health insurance plans, under House Bill 40 (“HB 40”). HB 40 strips away the current bar in Illinois law against the funding of elective abortions<sup>1</sup> by the state’s Medicaid and employee health insurance programs. HB 40 further affirmatively mandates coverage by Medicaid for all “reproductive health care that is otherwise legal.”

2. Plaintiffs present two primary claims in this Complaint: First, no funds may flow to support the procedures newly allowed or mandated under HB 40, because the General Assembly has not validly appropriated funds or estimated revenues to cover their cost, as required by the Illinois Constitution, Art. VIII, § 2(b). Second, House Bill 40 cannot be effective prior to June 1, 2018, because it did not pass out of the Senate until September 25, 2017, well after the May 31 deadline imposed for an early effective date under the Illinois Constitution, Art. IV, § 10, and the Effective Date of Laws Act, 5 ILCS 75/2.

**I. Plaintiffs.**

3. SPRINGFIELD RIGHT TO LIFE is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

4. LAKE COUNTY RIGHT TO LIFE COMMITTEE, INC., is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit

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<sup>1</sup> “Elective abortions” as used herein means abortions performed for reasons other than (1) to preserve the life of the mother or (2) in cases where the pregnancy results from an act of rape or incest.

here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

5. KNOX COUNTY RIGHT TO LIFE, NFP, is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

6. MORGAN COUNTY RIGHT TO LIFE, INC., NFP, is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

7. HENRY COUNTY RIGHT TO LIFE, INC., is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

8. CLINTON COUNTY CITIZENS FOR LIFE, is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

9. RIGHT TO LIFE OF ADAMS COUNTY, INC., is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

10. FAITH AND FREEDOM FAMILY MINISTRY, NFP, is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

9-11. PRO-LIFE ACTION LEAGUE, INC., is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its hundreds of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

10-12. DIOCESE OF SPRINGFIELD-IN-ILLINOIS is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life, with a mission that includes “making Christ visible in our world through worship, proclamation of the Word and service to all God’s people.” The DIOCESE OF SPRINGFIELD brings suit here on behalf of its many thousands of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

11-13. ILLINOIS RIGHT TO LIFE ACTION is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its thousands of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

12-14. ILLINOIS FEDERATION FOR RIGHT TO LIFE is an Illinois not-for-profit corporation dedicated to the dignity and protection of innocent human life and brings suit here on behalf of its thousands of members who are Illinois taxpayers, except for those taxpayers who are Illinois judges or family members of Illinois judges.

~~13.15.~~ REPRESENTATIVE BARBARA WHEELER is a resident of McHenry County, Illinois, and an Illinois taxpayer. She represents the 64th District in the Illinois House, and brings suit here as a taxpayer.

~~14.16.~~ SENATOR DAN MCCONCHIE is a resident of McHenry County, Illinois, and an Illinois taxpayer. He represents the 26th District in the Illinois Senate, and brings suit here as a taxpayer.

~~15.17.~~ REPRESENTATIVE MARK BATINICK is a resident of Will County, Illinois, and an Illinois taxpayer. He represents the 97th District in the Illinois House, and brings suit here as a taxpayer.

~~16.18.~~ SENATOR KYLE MCCARTER is a resident of St. Clair County, Illinois, and an Illinois taxpayer. He represents the 54th District in the Illinois Senate, and brings suit here as a taxpayer.

~~17.19.~~ REPRESENTATIVE STEVE REICK is a resident of McHenry County, Illinois, and an Illinois taxpayer. He represents the 63rd District in the Illinois House, and brings suit here as a taxpayer.

~~18.20.~~ SENATOR PAUL SCHIMPF is a resident of Monroe County, Illinois, and an Illinois taxpayer. He represents the 58th District in the Illinois Senate, and brings suit here as a taxpayer.

~~19.21.~~ REPRESENTATIVE KEITH WHEELER is a resident of Kendall County, Illinois, and an Illinois taxpayer. He represents the 50th District in the Illinois House, and brings suit here as a taxpayer.

~~20-22.~~ SENATOR DALE FOWLER is a resident of Saline County, Illinois, and an Illinois taxpayer. He represents the 59th District in the Illinois Senate, and brings suit here as a taxpayer.

~~23.~~ REPRESENTATIVE CHARLIE MEIER is a resident of Washington County, Illinois, and an Illinois taxpayer. He represents the 108th District in the Illinois House, and brings suit here as a taxpayer.

~~24.~~ SENATOR SAM MCCANN is a resident of Macoupin County, Illinois, and an Illinois taxpayer. He represents the 50th District in the Illinois Senate, and brings suit here as a taxpayer.

~~25.~~ REPRESENTATIVE JEANNE IVES is a resident of DuPage County, Illinois, and an Illinois taxpayer. She represents the 42nd District in the Illinois House, and brings suit here as a taxpayer.

~~26.~~ SENATOR NEIL ANDERSON is a resident of Rock Island County, Illinois, and an Illinois taxpayer. He represents the 36th District in the Illinois Senate, and brings suit here as a taxpayer.

~~21-27.~~ All Plaintiffs are Illinois taxpayers or represent Illinois taxpayers, who have paid and continue to expect to pay Illinois state taxes. As Illinois taxpayers, Plaintiffs have an equitable ownership interest in public funds and will be liable to replenish the public treasury for the unlawful depletion of public funds to prepare for and to pay for the new services mandated and allowed by HB 40.

## **II. Defendants.**

~~22-28.~~ FELICIA NORWOOD is the Director of the Department of Healthcare and Family Services, which administers the state's Medical Assistance Program and would authorize

payments out of general revenue funds for the elective abortions and other services mandated by HB 40. She is sued in her official capacity.

~~23-29.~~ MICHAEL HOFFMAN is the Acting Director of the Department of Central Management Services, which administers the state's employee and retiree health insurance programs and would authorize payments out of general revenue funds for the elective abortions and other services mandated by HB 40. He is sued in his official capacity.

~~24-30.~~ MICHAEL FRERICHS is the Treasurer of the State of Illinois. He is sued in his official capacity.

~~25-31.~~ SUSANA MENDOZA is the Comptroller of the State of Illinois. She is sued in her official capacity.

### **III. Jurisdiction and Venue.**

~~26-32.~~ This Court has subject matter and personal jurisdiction over this lawsuit, which challenges the effectiveness of an Illinois statute under the laws and Constitution of this state and the lawfulness of any spending pursuant to the statute. Plaintiffs seek injunctive relief pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/11-301 & 5/11-303, the Illinois Constitution, and under this Court's common law equitable powers.

~~27-33.~~ Venue lies in Sangamon County as the government officials sued here in their official capacities work or have principal offices here.

### **IV. Projected Fiscal Impact of HB 40.**

~~28-34.~~ Currently, the state's abortion providers perform approximately 40,000 abortions per year, nearly all of which are paid for by sources other than state taxpayers. *See*, Abortion Statistics, Ill. Dep't of Public Health, found at <http://www.dph.illinois.gov/data-statistics/vital-statistics/abortion-statistics>.

~~29.35.~~ Approximately 75% of pregnant women obtaining abortions have an income below 200% of Federal Poverty Level, according to the Guttmacher Institute, the former research arm of Planned Parenthood.<sup>2</sup>

~~30.36.~~ The State of Illinois provides that pregnant women with incomes up to 213% of Federal Poverty Level are presumptively eligible for Medicaid, through the state's "Moms & Babies" program.<sup>3</sup>

~~31.37.~~ Under HB 40, at least 20,000 to 30,000 or more of the state's annual 40,000 abortions would become eligible for and be paid for by Medicaid.

~~32.38.~~ According to data from the Illinois Department of Healthcare and Family Services, the state's average cost per abortion over the past five years is between \$750 and \$1,000.

~~33.39.~~ HB 40 would require the people of Illinois to pay tens of millions of dollars for elective abortions, with none of the elective abortion expenses in HB 40 eligible for the standard 50% Medicaid match, which the U.S. government provides the state for federally recognized medical procedures.

## **V. HB 40 Lacks the Appropriation Required for Funding Its Services.**

~~34.40.~~ The framers of the 1970 Illinois Constitution added to the Legislative Article two complimentary provisions on the expenditure of state taxpayer funds: first, they affirmed the exclusive power of the General Assembly to appropriate public funds; and second, they imposed

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<sup>2</sup> Jerman J, Jones RK and Onda T, *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008*, New York: Guttmacher Institute, 2016, <https://www.guttmacher.org/report/characteristics-us-abortion-patients-2014>.

<sup>3</sup> Illinois considers a pregnant woman's unborn child as a person for presumptive eligibility determination under Medicaid, such that a pregnant woman has a family size of at least 2 people. See, <http://www.dhs.state.il.us/page.aspx?item=14091>.

the specific constraint of a balanced budget on the General Assembly, by requiring that the General Assembly estimate available funds and appropriate only within the bounds of that estimate. Art. VIII, § 2(b).

~~35-41.~~ HB 40 purports to provide new entitlements in the state Medicaid and employee health insurance programs, but no new or supplemental appropriation of funds was enacted by the General Assembly to provide the additional general revenue funds that would be required to be expended to support that entitlement.

~~36-42.~~ Fiscal Year 2018 appropriations of general revenue funds for existing services under Medicaid and the state health insurance program were enacted on July 6, 2017. P.A. 100-21. Those appropriations, which cover the fiscal year from July 1, 2017 to June 30, 2018, did not account for or include amounts to support HB 40's tens of millions in new spending.

~~37-43.~~ The General Assembly also did not adopt a revenue estimate, estimating funds available, to pay for HB 40.<sup>4</sup> Because the General Assembly has not adopted such an estimate, any putative appropriations alleged to pay for HB 40's services would be invalid, in violation of the Illinois Constitution's Balanced Budget requirement. Art. VIII, § 2(b).

~~38-44.~~ And in fact, there are no funds available for HB 40, as the appropriations in SB 6 are already approximately \$1.7 billion greater than actual expected revenues. *See, e.g.*, "Illinois Economic and Fiscal Policy Report," 10/12/17, Governor's Office of Management and Budget, [https://www.illinois.gov/gov/budget/Documents/Economic%20and%20Fiscal%20Policy%20Reports/FY%202017/Economic\\_and\\_%20Fiscal\\_%20Policy\\_%20Report\\_10.12.17.pdf](https://www.illinois.gov/gov/budget/Documents/Economic%20and%20Fiscal%20Policy%20Reports/FY%202017/Economic_and_%20Fiscal_%20Policy_%20Report_10.12.17.pdf).

~~39-45.~~ As a result, any and all spending pursuant to HB 40 is prohibited by law.

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<sup>4</sup> The method of adoption for that revenue estimate, a joint resolution of the House and Senate, is prescribed by the Commission on Government Forecasting and Accountability Act, 25 ILCS 155/4(a).

**VI. HB 40 Passed the Illinois Senate, and Both Houses of the General Assembly, on September 25, 2017.**

~~40-46.~~ HB 40 received a simple majority vote in the Illinois House on April 25, 2017, passed out of the House, and arrived in the Senate on April 26.

~~41-47.~~ HB 40 received a simple majority vote in the Illinois Senate on May 10. However, on that same day, Senator Don Harmon, who voted in favor of HB40, filed a motion to reconsider the vote.

~~42-48.~~ On September 25, 2017, Sen. Harmon withdrew the motion to reconsider. HB 40 passed out of the Senate that day and was sent to the governor.

~~43-49.~~ The governor signed HB 40 on September 28.

~~44-50.~~ A motion to reconsider suspends all action on a particular vote and renders the vote ineffective, until the motion is resolved. *See, Mason's Manual of Leg. Pro.* (2010), § 467(1); Ill. Sen. R. 12-2 (adopting *Mason's*); *Ceresa v. City of Peru*, 133 Ill. App. 2d 748, 753 (3d Dist. 1971).

~~45-51.~~ A bill is not finally passed by the Senate until the bill is out of the Senate's possession. *See, Mason's Manual*, § 737(5) "Passage of Bills" ("When a house has passed a bill and it is out of that body's possession . . . jurisdiction of the bill has been lost and it has been finally passed."). And a bill subject to a motion to reconsider cannot "pass out of the possession of the Senate until after the motion has been decided or withdrawn." Ill. Sen. R. 7-15.

~~46-52.~~ A bill subject to a motion to reconsider is thus not finally passed until after the motion is resolved. *See also, Mason's Manual*, § 737(6) "Passage of Bills" ("When a bill has been voted upon favorably by both houses, but a motion to reconsider its action in passing the bill is pending in the house last acting on the bill and the bill is still in its possession, the bill has not been finally passed by both houses."). Had Sen. Harmon's motion to reconsider not been

withdrawn or otherwise resolved, HB 40 would have died at the conclusion of the 100th General Assembly. See, Ill. Const. Art. IV, § 5.

47-53. The motion to reconsider the Senate vote on HB 40 was not resolved until September 25, 2017. HB 40 was thus not passed by the Senate, and not passed by both houses of the General Assembly, until September 25, 2017.

48-54. The Illinois General Assembly website also reflects September 25, 2017 as the date that HB 40 “Passed Both Houses.” Bill Status of HB 40, found at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=40&GAID=14&GA=100&DocTypeID=HB&LegID=99242&SessionID=91>.

#### **VII. HB 40 Cannot Be Effective Prior to June 1, 2018.**

49-55. The Illinois Constitution provides that, “A bill passed after May 31 shall not become effective prior to June 1 of the next calendar year unless the General Assembly by the vote of three-fifths of the members elected to each house provides for an earlier effective date.” Art. IV, § 10. HB 40 was passed after May 31, and therefore cannot be effective prior to June 1, 2018, per the Illinois Constitution.

50-56. The Effective Date of Laws Act, 5 ILCS 75/3, provides that “a bill is ‘passed’ at the time of its final legislative action prior to presentation to the Governor pursuant to paragraph (a) of Section 9 of Article IV of the Constitution.”

51-57. Section 9(a) of Article IV of the Illinois Constitution provides that, “Every bill passed by the General Assembly shall be presented to the Governor within 30 calendar days after its passage.”

~~52.58.~~ HB 40 was not ready to be, and could not have been, presented to the governor until after final passage on September 25, 2017.<sup>5</sup> On that date, the 30-day presentation clock began to run. Under the Effective Date of Laws Act, HB 40 passed on September 25, 2017.

~~53.59.~~ The Effective Date of Laws Act, 5 ILCS 75/2, provides that, “A bill passed after May 31 of a calendar year shall become effective on June 1 of the next calendar year unless the General Assembly by a vote of three-fifths of the members elected to each house provides for an earlier effective date in the terms of the bill . . . .” HB 40 was passed after May 31, and therefore cannot be effective prior to June 1, 2018, per the Effective Date of Laws Act.

~~54.60.~~ Plaintiffs have made inquiries of the Department of Healthcare and Family Services to seek reassurances that the Department would not implement HB 40 prior to June 1, 2018. These inquiries have not been answered, and no such reassurance has been provided. The Attorney General’s Office has informed Plaintiffs’ counsel that the Department views January 1, 2018 as the effective date of the law and intends to process, in due course, any claims for reimbursement that may be received by the agency for elective abortions and other procedures performed on or after that date. Plaintiffs further believe and are informed that ~~some or~~ all of the Defendants ~~instead~~ believe that HB 40 is effective January 1, 2018, and are preparing to implement~~now to reimburse for elective abortions and for other procedures newly allowed or mandated by~~ HB 40, beginning on January 1, 2018, despite the constitutional and statutory

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<sup>5</sup> Otherwise, the Senate has repeatedly acted unconstitutionally by following its Rules on motions to reconsider, and not sending bills to the governor that have not finally passed. *See, e.g.,* Bill Status, Senate Bill 1, (5/31/17 “Senate Concurs,” 5/31/17 “Motion Filed to Reconsider Vote,” 7/31/17 “Motion Withdrawn,” 7/31/17 “Passed Both Houses,” 7/31/17 “Sent to the Governor”), found at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=1&GAID=14&GA=100&DocTypeID=SB&LegID=98844&SessionID=91&SpecSess=0>.

requirement that HB 40 cannot be effective prior to June 1, 2018 and despite the lack of any appropriation to implement of HB 40.

**Count I**  
**Violation of the Appropriations Clause & Balanced Budget Requirement**  
**of the Illinois Constitution, Art. VIII, § 2(b)**

1.- ~~60~~54. Paragraphs 1 through ~~60~~54 are realleged as if fully set forth herein.

~~55-61.~~ The General Assembly has not appropriated any funds for the new services in HB 40, as required by the Illinois Constitution's Appropriations Clause, Art. VIII, § 2(b).

~~56-62.~~ Any Fiscal Year 2018 appropriations arguably supporting HB 40's elective abortions and other services were made without adopting the estimate of revenues required by the Illinois Constitution's Balanced Budget requirement, Art. VIII, § 2(b), and provided in the Commission on Government Forecasting and Accountability Act, 25 ILCS 155/4(a).

~~57-63.~~ Any Fiscal Year 2018 appropriations arguably supporting HB 40's elective abortions and other services would be greater than revenues available, in violation of the Illinois Constitution's Balanced Budget requirement, Art. VIII, § 2(b).

~~58-64.~~ As a result, any and all spending pursuant to HB 40 is prohibited by law.

~~59-65.~~ Plaintiffs are interested and have standing to sue here as taxpayers of the State of Illinois, to enjoin the imminent unlawful expenditure of funds under HB 40.

~~60-66.~~ Despite the lack of a valid appropriation and revenue estimate, Defendants will illegally expend state dollars to carry out the terms of HB 40, in violation of the Illinois Constitution, Art. VIII, § 2(b).

~~61-67.~~ The Code of Civil Procedure, at 735 ILCS 5/11-301, provides that, "An action to restrain and enjoin the disbursement of public funds by any officer or officers of the State government may be maintained either by the Attorney General or by any citizen and taxpayer of

the State.” And at 735 ILCS 5/11-303 provides that, “Such action, when prosecuted by a citizen and taxpayer of the State, shall be commenced by petition for leave to file an action to restrain and enjoin the defendant or defendants from disbursing the public funds of the State.” Such a petition has been filed, presented, heard, and adjudicated.

~~62-68.~~ Plaintiffs will be substantially affected, especially damaged, and irreparably harmed by the illegal expenditure of general revenue funds, for the loss of which they have no adequate remedy at law.

~~63-69.~~ The equities strongly favor Plaintiffs as against Defendants, particularly as the only acts to be abated or enjoined are illegal acts.

WHEREFORE, Plaintiffs pray that the Court:

- a. Enjoin Defendants from expending any funds in any way preparing for or in furtherance of elective abortions, or any other previously unfunded procedures that are newly allowed or required to be funded by HB 40; and
- b. Grant all other relief to which Plaintiffs may be entitled on the premises.

**Count II**  
**Violation of the Illinois Constitution, Art. IV, § 10, &**  
**Effective Date of Laws Act, 5 ILCS 75/2**

1.-~~6963.~~ Paragraphs 1 through ~~6963~~ are realleged as if fully set forth herein.

~~64-70.~~ HB 40 did not pass the General Assembly on or before May 31, 2017.

~~65-71.~~ HB 40 thus cannot be effective before June 1, 2018, per the Illinois Constitution, Art. IV, § 10, and the Effective Date of Laws Act, 5 ILCS 75/2.

~~66-72.~~ Plaintiffs are interested and have standing to sue here as taxpayers of the State of Illinois, to enjoin the imminent unlawful expenditure of funds under House Bill 40.

~~67-73.~~ Despite its June 1, 2018 effective date, Defendants will illegally expend state dollars to prepare for and to provide elective abortions, and other new procedures allowed or mandated by HB 40.

~~68-74.~~ The Code of Civil Procedure, at 735 ILCS 5/11-301, provides that, “An action to restrain and enjoin the disbursement of public funds by any officer or officers of the State government may be maintained either by the Attorney General or by any citizen and taxpayer of the State.” And at 735 ILCS 5/11-303 provides that, “Such action, when prosecuted by a citizen and taxpayer of the State, shall be commenced by petition for leave to file an action to restrain and enjoin the defendant or defendants from disbursing the public funds of the State.” Such a petition has been filed, presented, heard, and adjudicated.

~~69-75.~~ Plaintiffs will be substantially affected, especially damaged, and irreparably harmed by the illegal expenditure of general revenue funds, for the loss of which they have no adequate remedy at law.

~~70-76.~~ The equities strongly favor Plaintiffs as against Defendants, particularly as the only acts to be abated or enjoined are illegal acts.

WHEREFORE, Plaintiffs pray that the Court:

- a. Enjoin Defendants from expending any funds in any way to prepare for funding or to fund elective abortions, or any other previously unfunded procedures that are newly allowed or required to be funded by HB 40, until at least June 1, 2018; and
- b. Grant all other relief to which Plaintiffs may be entitled on the premises.

Respectfully submitted,

/s/Peter Breen

*One of the attorneys for Plaintiffs*

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VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

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Senator Dan McConchie