

**IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

REPRESENTATIVE LEVI DEAN,)
REPRESENTATIVE JENNIFER GROSS, and)
COUNCIL MEMBER KRISTEN EGGERS,)

Plaintiffs,)

vs.)

DAVID YOST)
Attorney General of Ohio)
30 E. Broad Street, 14th Floor)
Columbus, OH 43215,)

and)

MICHAEL T. GMOSEK)
Butler County Prosecutor)
315 High Street, 11th Floor)
Hamilton, OH 45011,)

Defendants.)

Civil Action No. _____

JUDGE _____

COMPLAINT

For their Complaint against Defendants David Yost, in his official capacity as the Attorney General of Ohio, and Michael T. Gmoser, in his official capacity as the Butler County Prosecutor, Plaintiffs Ohio Representatives Levi Dean and Jennifer Gross, and City of Lebanon, Ohio, Council member Kristen Eggers, state as follows:

NATURE OF THE ACTION

1. The process "to revise" the Ohio Constitution in fundamental ways is governed exclusively by its Article XVI, Section 2, which does not permit a revision of the Constitution by any means other than through a constitutional convention.

2. To change multiple constitutional provisions, eliminate certain civil rights, including fundamental constitutional rights of parents, abrogate informed consent for medical procedures, exempt a self-described “medical” profession or business entirely from the regulatory power of the state, and interfere with legislative authority over the transgender issue is to “revise” the Ohio Constitution such that the procedure of Article XVI, Section 2, governs the process.

3. As explained by a landmark California Supreme Court decision, concerning a ballot initiative process adopted contemporaneously with and nearly identical to Ohio’s, a voter-enacted ballot initiative is invalid whenever “fundamental constitutional rights are implicated.” *Raven v. Deukmejian*, 52 Cal. 3d 336, 352, 276 Cal. Rptr. 326, 336, 801 P.2d 1077, 1087 (1990).

4. Every other state to consider this issue has likewise invalidated ballot initiatives that are substantive revisions rather than merely specific amendments. *See, e.g., Citizens Protecting Mich.’s Constitution v. Sec’y of State*, 761 N.W.2d 210, 229 (Mich. Ct. App.) (per curiam) (incorporating California precedents to hold that an initiative affecting multiple articles of the Michigan Constitution was a constitutional revision, and thus an impermissible amendment by initiative), *aff’d without opinion*, 755 N.W.2d 157 (Mich. 2008); *Bess v. Ulmer*, 985 P.2d 979, 982 (Alaska 1999) (holding that “[t]he Framers of the Alaska Constitution distinguished between a revision and an amendment,” and ruling that a ballot initiative to limit prisoner rights to federal protections constituted a “revision” that could not be adopted by a mere amendment); *Adams v. Gunter*, 238 So. 2d 824, 832 (Fla. 1970) (holding that a proposed amendment by initiative was improper because it affected multiple sections of the constitution, as Issue 1 did); *Holmes v. Appling*, 392 P.2d 636, 639 (Or. 1964) (adopting the distinction

between a revision and an amendment, and ruling that a proposed initiative was a revision improperly done as an amendment).

5. In addition, as explained in a published law review article based on quotations of numerous precedents and authorities, “no one’s right to live may be voted away.” Christopher T. Holinger, “No One’s Right to Live May Be Voted Away: Why Ohio’s Article 1 Section 22 Is Unconstitutional,” 38 Regent U.L. Rev. 46 (2025-2026). The Due Course of Law Clause in the Ohio Constitution guarantees due process to every person, which cannot be deprived of him by majority vote. OHIO CONST., Art. I, Sec. 16. This protection is inherent in the guarantee of ordered liberty: “One’s right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943). *See also Everwel v. Abbott*, 578 U.S. 54, 84 (2016) (Thomas, J., concurring) (The Framers “conceived this [goal of the common] good as objective and not inherently coextensive with majoritarian preferences.”).

6. Moreover, proponents of recent ballot initiatives in Ohio have sought and obtained immense funding for controversial ballot measures from foreigners and out-of-state residents, such that non-Ohioans have been rewriting the Ohio Constitution to govern Ohioans with overwhelming expenditures. This rewriting of the Ohio Constitution by out-of-state residents, including foreigners, was never the intention of the ballot initiative process, and it reinforces the need for strict compliance with Article XVI, Section 2, when revising the Ohio Constitution.

7. As a practical matter it is difficult, or impossible, to keep immense amounts of foreign money out of the dark money that finances Ohio ballot initiatives, and non-Ohioan billionaires in California and New York continue to finance Ohio ballot initiatives without

limitation. The Ohio legislature enacted a law banning expenditures on Ohio ballot initiatives by foreigners while allowing out-of-state, non-Ohioan American citizens to contribute. Ohio Rev. Code Ann. § 3517.121. A sharply divided panel of the U.S. Court of Appeals for the Sixth Circuit reversed an injunction against this law, and this lawsuit was then voluntarily dismissed by its plaintiffs without a final, definitive ruling. *See OPAWL v. Yost*, 152 F.4th 736 (6th Cir. 2025); *OPAWL v. Yost*, 2:24-cv-3495-MHW-KAJ, Doc. 53 (S.D. Ohio Nov. 13, 2025) (Stipulation of Dismissal).

8. Defendants are duty-bound to uphold the Ohio Constitution, which includes distinguishing between amendments, to which Article II, Section 1g applies, and revisions, to which compliance with Article XVI, Section 2 is required.

9. Just as a ballot initiative funded by non-Ohioans would be improper to remove all civil rights, authorize discrimination, interfere with the authority of the Ohio legislature, eliminate malpractice recovery, legalize heroin, establish mob rule, or allow dumping of raw sewage into Lake Erie, neither can other fundamental revisions to the Ohio Constitution be enacted in contravention of the rigorous requirements of Article XVI, Section 2.

10. Ohio Constitution Article I, Section 22 ("Section 22") conflicts with at least three fundamental provisions of the Ohio Constitution - Article I, Sections 1, 2, and 16 - thereby constituting a revision to the Ohio Constitution rather than a mere amendment as it was purportedly enacted by popular vote.

11. Plaintiffs seek declaratory and injunctive relief against a revision to the Ohio Constitution by a ballot initiative that failed to comply with the revision process required by Article XVI, Section 2.

PARTIES

12. Plaintiff Representative Levi Dean has served in the Ohio General Assembly since January 2025, and currently represents the Ohio House of Representatives District 71. He is suing on behalf of his ability to represent his constituents as an elected official, with which sweeping revisions to the Ohio Constitution by ballot initiative interfere.

13. Plaintiff Representative Jennifer Gross is a resident of Butler County who has served in the Ohio General Assembly since January 2023, and currently represents the Ohio House of Representatives District 45, which is located entirely in Butler County, Ohio. She is suing on behalf of her ability to represent her constituents as an elected official, with which sweeping revisions to the Ohio Constitution by ballot initiative interfere.

14. Plaintiff Kristen Eggers is a resident of Warren County serving on the Lebanon City Council since 2022. She is suing on behalf of her ability to represent her constituents as an elected official, with which sweeping revisions to the Ohio Constitution by ballot initiative interfere, and particularly her advocacy in defense of Lebanon as a Sanctuary City for the Unborn. She is also suing in her personal capacity as a mother on behalf of her minor daughters.

15. Defendant David Yost is the Attorney General of Ohio, who is being sued here only in his official capacity.

16. Defendant Michael T. Gmoser is the Butler County, Ohio, Prosecutor, who is being sued here only in his official capacity.

JURISDICTION AND VENUE

17. Jurisdiction in this Court is proper under Ohio R.C. 2721.02, R.C. 2727.02, and R.C. 2727.03.

18. All the actions complained of took place in the State of Ohio, and all the parties are located here.

19. Venue is proper in this Court under OHIO Civ.R. 3(C)(4), because Defendant Gmoser maintains his principal office in Butler County, Ohio.

20. Venue is further proper in this Court pursuant to Ohio Civ.R. 3(C)(6), because Plaintiff Gross's claims for relief arise here in Butler County, Ohio.

STANDING

21. Legal standing in Ohio is broader than in federal court, including that Ohio allows legislator standing based on *ProgressOhio.org, Inc. v. JobsOhio*, 2012-Ohio-2655, ¶ 28, 973 N.E.2d 307, 316 (Ct. App.).

22. All Plaintiffs are residents of the State of Ohio who suffer imminent, ongoing harm from the enforcement of ballot initiatives that revise the Ohio Constitution, as the "Right to Make Reproductive Decisions Including Abortion Initiative" enacted on November 7, 2023 (hereinafter "Issue 1") did to become Ohio Constitution Article I, Section 22 ("Section 22").

23. The Plaintiff Ohio Representatives have legislator standing as members of the Ohio House of Representatives whose authority is improperly undermined by Section 22 in violation of Article I, Sections 1 and 2, and additional provisions of the Ohio Constitution.

24. Plaintiff Eggers has standing as a member of the Lebanon City Council, whose properly enacted sanctuary city law prohibiting abortion is being improperly nullified by Section 22 and its interference with representative government. Eggers thereby has the equivalent of legislator standing. In addition, Eggers has standing on behalf of her minor daughters, as Section 22 deprives them of the protections of current Ohio law.

25. All Plaintiffs additionally have standing on the basis set forth by the U.S. Court of Appeals Judge James Ho: “I see no basis for allowing Article III standing based on aesthetic injury when it comes to animals and plants — but not unborn human life.” *All. for Hippocratic Med. v. United States Food & Drug Admin.*, 78 F.4th 210, 260 (5th Cir. 2023) (Ho, J., concurring and dissenting in part).

26. All Plaintiffs have standing under the expansive scope of standing established by the U.S. Supreme Court in *Diamond Alt. Energy, LLC v. EPA*, 145 S. Ct. 2121 (2025).

27. All Plaintiffs have additional standing under Ohio precedents because Section 22 affects “a public right, as distinguished from a purely private right,” and thus “a citizen need not show any special interest therein, but he may maintain a proper action predicated on his citizenship relation to such public right.” *State ex rel. OATLA v. Sheward*, 86 Ohio St.3d 451, 473, 715 N.E.2d 1062, 1083 (1999) (inner quotations omitted).

28. Plaintiffs further have standing because the requested declaratory and injunctive relief is necessary to protect Plaintiffs against ongoing, irreparable harm that would result from an improper enforcement of Section 22.

FACTUAL ALLEGATIONS

29. Out-of-state billionaires have sought, and continue to seek, to fundamentally change Ohio through ballot initiatives in bypass of Article XVI, Section 2.

30. Studies show that the interest groups that raise the most on a ballot initiative typically prevails, as occurred for Issue 1, with a reported \$58 million in spending raised mostly from out-of-state residents, including million-dollar checks from non-Ohioans.

31. Use of the ballot initiative process, as lavishly funded by out-of-state and foreign interests, to make fundamental and far-reaching changes to the Ohio Constitution, is contrary to the intended and legitimate scope of the ballot initiative process as adopted in 1912.

32. Section 22 repeals multiple constitutional provisions, eliminates fundamental civil rights, including parental rights, and exempts an entire commercial activity from the regulatory power of the state.¹

33. Section 22 purports to grant the sole decision-making power to an abortionist whether to perform an abortion at any time during pregnancy, without providing informed consent, or even to commit infanticide after the birth of an infant during a botched abortion.

34. Section 22 bans zoning regulations that prohibit the operation of a late-term or partial-birth abortion clinic next to a church or a school.

35. Section 22 lacks a severability provision, and it is impossible to know what the votes for or against it would have been if one of its provisions had been severed from the whole.

36. Under *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022), there is no federal right to an abortion. "It is time to heed the Constitution and return the issue of abortion to the people's *elected representatives*." *Id.* at 232 (emphasis added).

CLAIMS FOR RELIEF

COUNT I

Injunctive Relief Against Violation of the Ohio Constitution Revision Procedure

37. Plaintiffs reallege and incorporate by reference herein all of the allegations in this Complaint.

38. Supporters of Issue 1 stated publicly that they sought far-reaching changes by enacting Section 22 as a ballot initiative. For example, in a post-election news story, a prominent

¹ <https://codes.ohio.gov/ohio-constitution/section-1.22> (viewed May 1, 2026).

supporter of Issue 1 confirmed the sponsors' intent to overturn "over 30 different restrictions [currently] in place." Julie Carr Smyth, "Ohio voters just passed abortion protections. When and how they take effect is before the courts," *Associated Press* (Nov. 24, 2023).²

39. Issue 1, now Section 22, conflicts with multiple longstanding provisions in the Ohio Bill of Rights, and removes regulatory authority from the General Assembly in an unprecedented manner.

40. To legitimately achieve such far-reaching goals, the proponents of Issue 1 would have been required to comply with the convention process set forth in Ohio Constitution Article XVI, Section 2, which they have not done.

41. For the constitutional revision requirements of Article XVI, Section 2, to have meaningful effect, they cannot be undermined and even nullified by a mere ballot initiative, and particularly not when the electorate was influenced and even misled by immense out-of-state and foreign donations as occurred with the passage of Issue 1.

42. As explained by the Cleveland-Marshall College of Law Dean Emeritus Steven Steinglass, "There is a distinction in state constitutional law between constitutional amendments and constitutional revisions, and *courts have used this distinction to limit the use of the initiative to amendments and to bar its use for constitutional revisions.*" Steinglass, "Constitutional Revision: Ohio Style," 77 Ohio St. L.J. 281, 323 (2016) (emphasis added). Dean Steinglass observed that "there is a textual basis for" this distinction in Ohio. *Id.*

43. Because Issue 1 constituted a far-reaching substantive revision to the Ohio Constitution without complying with the governing procedure for doing so, Section 22 is unenforceable.

² <https://apnews.com/article/abortion-ohio-constitutional-amendment-republicans-courts-fb1762537585350cacece589d68fe5a0d> (viewed May 1, 2026).

44. Plaintiffs seek an injunction against the enforcement of Section 22.

COUNT II

Injunctive Relief Against Violation of the Ohio Constitution Art. I, Section 16, and Art. IV

45. Plaintiffs reallege and incorporate by reference herein all of the allegations in this Complaint.

46. Ohio's Due Course of Law Clause states:

All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay.

OHIO CONST., Art. I, Sec. 16.³

47. Since Issue 1 was added to the Ohio Constitution, abortions have increased in Ohio without due process for the unborn children involved. In 2025 there was "an increase of more than 3,300 over 2024, which is a 15% jump" in the number of abortions in Ohio. Jo Ingles, "Annual Ohio abortion report shows increase, including many out-of-state patients," *The Statehouse News Bureau* (March 2, 2026).

48. It is a scientific fact that abortion takes the life of a human being, formed at conception. *See* Exhibit A, the Affidavit of James Matheson, D.O., and Exhibit B, the Affidavit of James P. Adamo, M.D., which are incorporated fully into this Complaint by way of reference.

49. In 2025, Section 22 improperly deprived the 3,300 additional victims of abortion of legal recourse and protection guaranteed by Ohio's Due Course of Law Clause, as quoted above.

50. Section 22 is thereby invalid as contrary to Ohio Constitution Art. I, Sections 16.

³ <https://codes.ohio.gov/ohio-constitution/section-1.16> (viewed May 1, 2026).

51. In addition, Section 22 improperly infringes on authority vested in the judiciary, pursuant to the Ohio Constitution, Article IV, concerning abortions on minors including judicial bypass.

52. Section 22 makes no reference to judicial authority under the Ohio Constitution, Article IV, and does not purport to revise it, and yet infringes on the judicial branch.

53. Section 22 is thereby invalid as contrary to Ohio Constitution Art. IV.

COUNT III

Injunctive Relief Against Violation of the Ohio Constitution Art. I, Sections 1 and 2

54. Plaintiffs reallege and incorporate by reference herein all of the allegations in this Complaint.

55. The first section of the Ohio Constitution fully protects the inalienable right to life as well as the right to defend the lives of others:

All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

OHIO CONST., Art. I, Sec. 1.⁴

56. Section 22 does not mention this fundamental constitutional protection of inalienable rights, and cannot properly repeal it implicitly rather than explicitly.

57. Section 22 does not establish when the legal protection of life should begin.

58. “‘Unborn human individual’ means an individual organism of the species homo sapiens from fertilization until live birth,” under Ohio law. Ohio Rev. Code § 2919.19(A)(15). Ohio statutes thereby reflect the scientific truth that life begins at conception. Ohio Rev. Code § 2901.01(B)(1)(c)(i) (unborn human). Under the Ohio criminal code, a “person” includes “[a]n

⁴ <https://codes.ohio.gov/ohio-constitution/section-1.1> (viewed May 1, 2026).

unborn human who is viable,” which is “the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.” *Id.* 2901.01(B)(1)(a)(ii) and (c)(ii).

59. Ohio has a fetal homicide statute that fully recognizes the right to life of the unborn, and allows express reference to an unborn child who is a victim of assault by her name in a prosecution. *See* Ohio Rev. Code § 2903.09(A) (“Unlawful termination of another’s pregnancy” means causing the death of an unborn member of the species homo sapiens, who is or was carried in the womb of another, as a result of injuries inflicted during the period that begins with fertilization and that continues unless and until live birth occurs.”). *See also State v. Cutts*, 2009-Ohio-3563, ¶ 250 (Ct. App.) (affirming “the trial court’s permitting the State, over his objection, to refer to the unborn fetus by the name, ‘Baby Chloe,’ throughout the trial, and in the jury instructions, which repeatedly made reference to the unborn child by name”).

60. Yet Section 22 purports to grant an abortionist an unfettered right to terminate human life contrary to the “Inalienable Rights” provision of the Ohio Constitution. *See* Exhibit A, the Affidavit of James Matheson, D.O., and Exhibit B, the Affidavit of James P. Adamo, M.D.

61. Ohio Constitution Article I, Section 2 (“Section 2”) predates and limits the scope of ballot initiatives, and has been a foundation of the Ohio Constitution since 1851.

62. It establishes that “no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly,”⁵ thereby safeguarding against placing any commercial activity beyond the reach of regulatory authority.

⁵ <https://codes.ohio.gov/ohio-constitution/section-1.2> (viewed May 1, 2026).

63. The addition of the ballot initiative process in 1912 did not repeal this limitation, which remains in full force and effect today. *See, e.g., ITT World Communications, Inc. v. City and County of San Francisco*, 37 Cal.3d 859, 210 Cal. Rptr. 226, 693 P.2d 811, 816 (1985) (“A constitutional amendment ... should not be construed to effect the implied repeal of another constitutional provision.”).

64. Despite this, Section 22 attempts to create special privileges by entirely prohibiting *any* regulation of the abortion industry.

65. Planned Parenthood is a provider of services related to transgender treatments, such that Planned Parenthood has received payments in connection with transgender-related services. Section 22 wrongly interferes with the authority of the legislature to regulate or prohibit transgender-related services by Planned Parenthood and other businesses.

66. Specifically, Section 22(A)(2) deprives the legislature of its authority over “fertility treatment,” which falls within the scope of transgender treatments and operations. Section 22 thereby wrongly interferes with the authority of the Ohio General Assembly to protect minors against predatory practices that administer transgender treatments and perform irreversible transgender operations on the children.

67. In addition, fundamental requirements of informed consent have long been well-established for every medical procedure, and are inherent to natural law (*see infra* Count IV), but Section 22 attempts to deny legislative authority to require informed consent for the benefit of a patient prior to an abortion.

68. Section 22 further interferes with statutory and common law requirements of parental consent for abortions and transgender medications/procedures performed on their minor children.

69. Section 22 improperly prevents a ban on abortion while or shortly after an infant is born alive.

70. The U.S. Supreme Court has emphasized that “the State may not surrender or bind itself not to exert its police power to guard the safety of workers.” *Phillips Petroleum Co. v. Jenkins*, 297 U.S. 629, 635 (1936) (citing many precedents). Likewise, a ballot initiative cannot properly withdraw authority to regulate abortion providers in protection of the most vulnerable.

71. Section 22 thereby violates Article I, Section 2 of the Ohio Constitution.

72. Multiple rulings by the U.S. Supreme Court and other courts have invalidated ballot initiatives that interfere with representative government as Section 22 does. For example, in *Romer v. Evans*, 517 U.S. 620 (1996), both the Colorado and United States Supreme Courts invalidated a voter-approved Colorado ballot initiative that had amended the Colorado Constitution to prohibit the Colorado legislature from granting preferences to a certain class of people, in that case homosexuals (years prior to the recognition of their 14th Amendment rights). The interference with representative government rendered that voter-enacted ballot initiative invalid.

73. Section 22 disenfranchises parents, minors, representatives of unborn children, and women entitled to informed consent, and renders them unable to seek protection against unethical practices by abortion providers.

74. The U.S. Supreme Court has consistently and repeatedly invalidated ballot initiatives that infringe on the political process. See *Hunter v. Erickson*, 393 U.S. 385, 388 (1969); *Washington v. Seattle Sch. Dist. No. 1*, 458 U.S. 457, 463 (1982) (invalidating a statewide ballot initiative enacted by nearly 66% of the public, based on the political-process doctrine).

75. By infringing on the political process and violating limitations in the Ohio Constitution on the scope of amendments by ballot initiatives, Section 22 is contrary to controlling precedents and in violation of Ohio Constitution Art. I, Sections 1 and 2.

COUNT IV
Injunctive Relief Against Violation of Natural Law in the Ohio Constitution

76. Plaintiffs reallege and incorporate by reference herein all of the allegations in this Complaint.

77. The Ohio Constitution provides greater protection on some issues than the United States Constitution. *Arnold v. Cleveland*, 67 Ohio St.3d 35, 616 N.E.2d 163 (1993).

78. The Ohio Constitution recognizes and protects natural law, “which is not expressly recognized by the Bill of Rights or any other provision of the United States Constitution, although it is recognized in the Declaration of Independence.” *Preterm Cleveland v. Voinovich*, 89 Ohio App. 3d 684, 691, 627 N.E.2d 570, 574-75 (1993).

79. Infanticide, late-term abortion, and other procedures authorized by Section 22, without informed or parental consent, are contrary to natural law.

80. The intent behind the adoption of the ballot initiative process was not to allow overriding natural law. The ballot initiative process is intended to allow only lawmaking that is consistent with the natural law foundation of the Ohio Constitution, and Issue 1 transgressed the limits on proper use of a ballot initiative.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter a:

- (i) declaratory judgment that the Ohio Constitution, Article I, Section 22, does not create any enforceable rights at the expense or detriment of the statutory and common law rights of any individuals not mentioned in Article I, Section 22, including the rights of women to informed consent, parents over their minor children, children themselves, born and unborn, spouses, and partners who are biological parents of an unborn child;

- (ii) declaratory judgment that the Ohio Constitution, Article I, Section 22, improperly infringes on authority vested in the judiciary, pursuant to the Ohio Constitution, Article IV, concerning abortions on minors and judicial bypass;
- (iii) preliminary and permanent injunction restraining Defendants, their employees, agents, and successors in office, from interpreting or enforcing the Ohio Constitution, Article I, Section 22, in any way contrary to duly enacted statutes, regulations, and ordinances that properly regulate abortionists and/or the abortion industry;
- (iv) preliminary and permanent injunction restraining Defendants, their employees, agents, and successors in office, from interpreting or enforcing the Ohio Constitution, Article I, Section 22, in any way contrary to zoning or other regulations or other duly enacted statutes that protect the rights of women to informed consent, parents over their minor children, the minor children themselves, unborn children under the Heartbeat Law (ORC §§ 2919.19 to 2919.1910), and spouses who are biological parents of an unborn child;
- (v) preliminary and permanent injunction restraining Defendant Yost, his employees, agents, and successors in office, from certifying or enforcing any ballot initiative that constitutes a revision to the Ohio Constitution by conflicting with three other provisions in it, eliminating fundamental civil rights, denying due process, exempting any commercial activity from the regulatory power of the state, or causing any other fundamental change to the constitutional structure; and
- (vi) any further relief that the Court may deem to be just and proper.

Dated: May 5, 2026

Respectfully Submitted,

s/ Thomas W. Condit

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**pro hac vice forthcoming*

PRAECIPE TO THE CLERK

The Clerk of Courts is hereby directed to serve a copy of this Complaint on the Defendants in accordance with Civil Rule 4.

s/ Thomas W. Condit
Thomas W. Condit, Attorney for Plaintiffs

EXHIBIT A

IN THE COURT OF COMMON PLEAS
WARREN COUNTY, OHIO

REPRESENTATIVE LEVI DEAN,)
REPRESENTATIVE JENNIFER GROSS,)
and COUNCILWOMAN KRISTEN EGGERS,)
Plaintiffs,) Civil Action
vs.)
DAVID YOST) No. _____
Attorney General of Ohio)
30 E. Broad Street, 14th Floor)
Columbus, OH 43215,)
and)
DAVID P. FORNSHELL)
Warren County Prosecutor)
520 Justice Drive)
Lebanon, OH 45036)
Defendants.)

Affidavit of James Matheson, D.O.

I, James Matheson, D.O., being duly sworn, state as follows:

1. I am over 21 years old and fully competent to make this affidavit.
2. I am a physician licensed in good standing by the State Medical Board of Ohio and have practiced Obstetrics & Gynecology in Ohio for 36 years.
3. I am board-certified by the American Osteopathic Board of Obstetrics & Gynecology.
4. I received my medical degree the Chicago College of Osteopathic Medicine at Midwestern University (1984) and completed my residency in Obstetrics and Gynecology from 1985-1989 at Ohio Health/Riverside Methodist Hospital.

5. I practice all aspects of Obstetrics and Gynecology and perform risk reducing salpingectomy for women at risk for ovarian cancer.

6. I also have special training in menopause as a Menopause Society Certified Practitioner.

7. The facts stated here are based on my education, experience, and personal knowledge: **Fertilization marks the beginning of life of a human being, a being that is alive and is a member of the human species with its own distinct DNA independent from that of the mother and father. This is a biological fact based on both objective and verifiable scientific criteria.**

8. Science has settled this question once and for all. A unique individual human being is formed at fertilization with 46 human chromosomes. This fact is supported by overwhelming medical evidence, every respected embryology, fetology, and biology textbook, and technology ranging from the 4-D ultrasound, invitro-fertilization, and inter-uterine surgery. It is also backed by experts across the medical field. This fact is overwhelmingly supported in countless medical, biological, and scientific writings.¹

9. Once a woman is pregnant, the question before her isn't whether she will have a baby. Once fertilization occurs, she *already* has a baby—a separate, unique, individual human being, about half who are male, with DNA different from their mother's and father's, and a separate beating heart, which begins to beat at 22 days after fertilization.²

¹ Report, Subcommittee on Separation of Powers to Senate Judiciary Committee S-158, 97th Congress, 1st Session 1981, 7.

² <https://lozierinstitute.org/dive-deeper/highlights-of-the-early-heart/> (viewed Apr. 12, 2026).

This unique human being at fertilization has already determined characteristics including their sex, hair, eye color, and blood type.³ Only time and nourishment are necessary from the moment of fertilization to reach maturity—the same as any growing child, teen, or adult.

10. It should be noted that the word “conception” was traditionally used to refer to the moment of fertilization, until the American College of Obstetricians and Gynecologists (ACOG) changed the definition to refer to implantation, which occurs five to seven days later. This re-definition allowed abortifacients (which kill the newly formed life) to be marketed as contraception (which prevent a new life from forming).⁴ While many still use the terms interchangeably, the most common usage refers to fertilization, when 23 chromosomes (from the mother’s egg) unite with 23 chromosomes (from the father’s sperm) to form a unique, individual human being.

11. Furthermore, other physicians, biologists, and scientists agree that fertilization marks the beginning of the life of a human being.

- a. Dr. Jerome Lejeune a professor of genetics at the University of Descartes in Paris who discovered the genetic cause for Downs Syndrome, testified to the U.S. Judiciary Subcommittee. Lejeune testified, “**after fertilization has taken place a new human being has come into being**” (emphasis added). He stated that this “is no longer a matter of taste or opinion,” and “not a

³ <https://lastate.pressbooks.pub/humanreproduction/chapter/fertilization/> (viewed Apr. 12, 2026).

⁴ <https://www.consciencelaws.org/publications/pamphlets/pamphlet-minefields.pdf> (viewed Apr. 12, 2026).

metaphysical contention, it is plain experimental evidence.” He added, “Each individual has a very neat beginning, at conception.”⁵

- b. Professor Hymie Gordon, Mayo Clinic: “By all the criteria of modern molecular biology, **life is present from the moment of conception**” (emphasis added).⁶
- c. Professor Micheline Matthews-Roth, Harvard University Medical School: “It is incorrect to say that biological data cannot be decisive.... **It is scientifically correct to say that an individual human life begins at conception....** Our laws, one function of which is to help preserve the lives of our people, should be based on accurate scientific data” (emphasis added).⁷
- d. Dr. Watson A. Bowes, University of Colorado Medical School: “The beginning of a single human life is from a biological point of view a simple and straightforward matter—the **beginning is conception. This straightforward biological fact should not be distorted to serve sociological, political, or economic goals**” (emphasis added).⁸
- e. Dr. Alfred M. Bongiovanni, professor of pediatrics and obstetrics at the University of Pennsylvania, stated: “I have learned from my earliest medical education that human life begins at the time of conception...I submit that human life is present throughout this entire sequence from conception to

⁵ <https://www.epm.org/resources/2010/Mar/8/scientists-attest-life-beginning-conception/> (emphasis added, viewed Apr. 12, 2026).

⁶ *Id.* (emphasis added).

⁷ *Id.* (emphasis added).

⁸ *Id.* (emphasis added).

adulthood and that any interruption at any point throughout this time constitutes a termination of human life....I am no more prepared to say that these early stages [of development in the womb] represent an incomplete human being than I would be to say that the child prior to the dramatic effects of puberty...is not a human being. **This is human life at every stage**" (emphasis added).⁹

- f. The Official Senate report on Senate Bill 158, the "Human Life Bill," summarized the issue this way: Physicians, biologists, and other scientists agree that conception marks the beginning of the life of a human being—a being that is alive and is a member of the human species. **There is overwhelming agreement on this point in countless medical, biological, and scientific writings** (emphasis added).¹⁰
- g. The December, 2005 *South Dakota Task Force To Study Abortion* reported to the Governor and legislature of South Dakota: "**There can no longer be any doubt that each human being is totally unique from the very beginning of his or her life at fertilization...** A human being at an embryonic age and that human being at an adult age are naturally the same, the biological differences are due only to the differences in maturity" (emphasis added).¹¹

⁹ *Id.* (emphasis added).

¹⁰ Report, Subcommittee on Separation of Powers to Senate Judiciary Committee S-158, 97th Congress, 1st Session 1981, 7 (emphasis added).

¹¹ <https://rewirenewsgroup.com/wp-content/uploads/2014/10/South-Dakota-Abortion-Task-Force-Report.pdf> (emphasis added, viewed Apr. 12, 2026).

h. A 2019 survey of 5,577 biologists finds further and overwhelming scientific consensus. It revealed **96 percent agreement: “[H]uman life begins at fertilization”** (emphasis added). This is despite 85 percent of those surveyed self-identifying as “pro-choice.”¹²

i. Most Americans (93 percent) believe a human’s life is worthy of legal protection once it begins.¹³

ii. When asked “Which group is most qualified to answer the question, ‘When does a human’s life begin?’” 86 percent said biologists.¹⁴

iii. When 5,577 biologists were asked (of over 1000 institutions), 96 percent admitted, “Life begins at fertilization.”¹⁵

iv. The majority of the sample identified as liberal (89%), pro-choice (85%) and non-religious (63%). In the case of Americans who expressed party preference, the majority identified as Democrats (92%).¹⁶

i. In an abstract of, “When Human Life Begins,” The American College of Pediatricians published, **“The predominance of human biological research confirms that human life begins at conception—fertilization** (emphasis added). At fertilization, the human being emerges as a whole, genetically

¹² <https://quillette.com/2019/10/16/i-asked-thousands-of-biologists-when-life-begins-the-answer-wasnt-popular/> (emphasis added, viewed Apr. 12, 2026).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

distinct, individuated zygotic living human organism, a member of the species *Homo sapiens*, needing only the proper environment in order to grow and develop. The difference between the individual in its adult stage and in its zygotic stage is one of form, not nature. This statement focuses on the scientific evidence of when an individual human life begins.”¹⁷

12. The unique individual human life from the moment of fertilization is recognized by Ohio law, court decisions, and federal policy.

- a. Twenty-five years prior to the collapse of *Roe v. Wade*, Ohio’s Fetal Homicide statute protected unborn children from fertilization: Ohio Revised Code § 2903.01 states: “Unlawful termination of another’s pregnancy” means causing the death of an unborn member of the species *homo sapiens*, who is or was carried in the womb of another, as a result of injuries inflicted during the period that **begins with fertilization and that continues unless and until live birth occurs**” (emphasis added).
- b. It is also recognized by Ohio Revised Code § 2919.19(a) which states; **“Unborn human individual** means an individual organism of the species *homo sapiens* **from fertilization until birth**” (emphasis added).
- c. According to the National Conference of State Legislatures *State Laws on Fetal Homicide and Penalty-enhancement for crimes Against Women* (May 1, 2018), there are at least **twenty-nine states that protect the unborn child**

¹⁷ <https://acpeds.org/when-human-life-begins/> (viewed Apr. 12, 2026).

from “any stage of gestation/development,” “conception,” “fertilization,” or “post fertilization” (emphasis added).

- d. Louisiana’s Fifth Circuit Court of Appeals has determined that embryos are people, and thus custody battles between parents are covered by family law.¹⁸
- e. The federal government has also **recognized embryos for survivors’ benefits for both Social Security benefits, if the inheritance rights are recognized by state law as California and Colorado have done.**¹⁹

13. Even those in favor of abortion agree: Human life begins at fertilization.

- a. The late Professor Ashley Montagu, a geneticist and professor at Harvard and Rutgers, described as “unsympathetic to the prolife cause” stated: “The basic fact is simple: **life begins not at birth, but conception**” (emphasis added).²⁰
- b. According to their 2023-24 Annual Report (p. 23), abortion giant Planned Parenthood, performed 402,230 abortions. Yet, Planned Parenthood stated in a pamphlet they published in 1965, “**An abortion kills the life of a baby after it has begun**” (emphasis added).²¹

¹⁸ https://biotech.law.lsu.edu/cases/la/health/embryo_rs.htm (emphasis added, viewed Apr. 12, 2026).

¹⁹

http://palmerlegal.com/blog/2012/6/inheritance_rights_of_posthumously_conceived_child#:~:text=The%20U.S.%20Supreme%20Court%20recently%20held%20that,rights%20under%20state%20law.%20In%20Astrue%20v. (viewed Apr. 12, 2026).

²⁰ Ashley Motangu, *Life Before Birth*, page vi (New York: Signet Books, 1977).

²¹ [1960’s Planned Parenthood Brochure: Abortion Kills The Life Of A Baby – Lexington Libertarian](#) (emphasis added, viewed Apr. 12, 2026).

- c. Even after abortion was legalized, **Planned Parenthood's position that abortion kills the life of a baby did not change.** Planned Parenthood's

Director Faye Wattleton appeared on the *Phil Donahue* show on September 6, 1991 and responded to Randall Terry's statement:

Randall Terry: "It's not a frog or a ferret that's being killed. **It's a baby.**"

Faye Wattleton: "I am fully aware of that. I am fully aware of that."²²

- d. Then, in 1997, former President of Planned Parenthood, Faye Wattleton, reaffirmed her official position that abortion kills a human life: "I think we have deluded ourselves into believing that people don't know that **abortion is killing.** So, any pretense that abortion is not killing is a signal of our ambivalence, a signal that we cannot say yes, it kills a fetus" (emphasis added).²³
- e. Using the Latin word "fetus," does not negate that we are talking about a human being. Black's Law Dictionary defines fetus as "[a]n unborn child."²⁴
- f. Peter Singer, who stated publicly that he approved of both abortion and infanticide of handicapped infants, stated, "**There is no doubt** that from the first moments of its existence an embryo conceived from human sperm and eggs **is a human being**" (emphasis added).²⁵

²² <https://clinicquotes.com/planned-parenthood-president-is-fully-aware-an-abortion-kills-a-baby/> (emphasis added).

²³ Faye Wattleton. "Speaking Frankly." *MS Magazine*, page 67 (May/June 1997).

²⁴ <https://thelawdictionary.org/?s=fetus> (viewed Apr. 12, 2026).

²⁵ Peter Singer. *Practical Ethics*, pp. 85 and 86 (2nd Ed., Cambridge: Cambridge University Press: 2008).

g. Dr. Bernard Nathanson, a co-founder of what is now the National Abortion Rights Action League (NARAL), owned and operated what was at the time the largest abortion clinic in the western hemisphere. He was directly involved in over sixty thousand abortions.²⁶ Nathanson wrote in the *New England Journal of Medicine* that he was deeply troubled by his “increasing certainty that I had in fact presided over 60,000 deaths.”²⁷ Nathanson stated, “Modern technologies have convinced us that **beyond question the unborn child is simply another human being**, another member of the human community, **indistinguishable in every way from any of us**” (emphasis added).²⁸

14. Fetal Development provides further proof that the being in the womb is, in fact, a living, growing human being.

a. At fertilization, a unique human being is formed with its own DNA distinct from the mother and father, containing all the instructions needed to develop into an adult.²⁹ This unique human being at fertilization, has already determined characteristics including their sex, and blood type, often different from the mother.³⁰

²⁶ [Scientists Attest to Life Beginning at Conception - Eternal Perspective Ministries](#) (viewed Apr. 12, 2026)

²⁷ Bernard N. Nathanson, “Deeper into Abortion,” *New England Journal of Medicine* 291 (1974): 1189D90.

²⁸ Bernard Nathanson, *Aborting America* (Garden City, NY: Doubleday, 1979) (emphasis added).

²⁹ https://www.ehd.org/dev_article_unit1.php (viewed Apr. 12, 2026).

³⁰ <https://iastate.pressbooks.pub/humanreproduction/chapter/fertilization/> (viewed Apr. 12, 2026).

- b. At 3 weeks and 1 day after fertilization (22 days)- the heart begins to beat.³¹
- c. By 4 weeks, the heart typically beats between 105 and 121 times per minute.³²
- d. By 6 weeks, the heart is beating 110 times per minute,³³ the external ear begins to take shape, and the opening of the ear canal becomes visible. Salivary glands also appear inside the mouth.³⁴
- e. There are measurable brainwaves by 6 weeks, 2 days.³⁵
- f. At week 8, the upper lip and nose have formed.³⁶
- g. In the 9th week of pregnancy, the baby's arms grow, and elbows appear.³⁷
The child can suck their thumb and may swallow amniotic fluid. He or she can also grasp an object, open and close their jaw, move their tongue, sigh, and stretch.³⁸ Toes are visible and eyelids form.³⁹
- h. By the 10th week of pregnancy (or eight weeks after conception) the elbows can now bend. Toes and fingers lose their webbing and become longer. The eyelids and the outer parts of the ears continue to develop.⁴⁰

³¹ https://www.ehd.org/dev_article_unit4.php (viewed Apr. 12, 2026).

³² *Id.*

³³ <https://www.hli.org/resources/when-does-a-fetus-have-a-heartbeat/> (viewed Apr. 12, 2026).

³⁴ https://www.ehd.org/dev_article_unit6.php (viewed Apr. 12, 2026).

³⁵ https://www.ehd.org/dev_article_unit7.php (viewed Apr. 12, 2026).

³⁶ <https://www.mayoclinic.org/healthy-lifestyle/pregnancy-week-by-week/in-depth/prenatal-care/art-20045302> (viewed Apr. 12, 2026).

³⁷ *Id.*

³⁸ https://www.ehd.org/dev_article_unit9.php (viewed Apr. 12, 2026).

³⁹ <https://www.mayoclinic.org/healthy-lifestyle/pregnancy-week-by-week/in-depth/prenatal-care/art-20045302> (viewed Apr. 12, 2026).

⁴⁰ *Id.*

- i. By week 11, red blood cells are beginning to form in the liver and the outer genitals start developing.⁴¹

- j. By 12 weeks' gestation, a baby is forming unique fingerprints and sucks his thumb with a preference for his left or right hand.⁴² Fingernails are growing, and the intestines are in the abdomen.⁴³ Kidneys begin making urine, and the pancreas starts making insulin by week 12.⁴⁴
- k. There is substantial evidence that unborn babies are capable of experiencing pain by at least 15 weeks of gestation, and as early as 12 weeks.⁴⁵
- l. By weeks 13-16, the bones harden, hearing starts to develop, and the lungs begin to form.⁴⁶
- m. During weeks 17-20 in pregnancy: the brain that controls motor movements is fully formed, the digestive system is working, ears, nose, and lips are recognizable on an ultrasound exam.⁴⁷

⁴¹ *Id.*

⁴² [https://lozierinstitute.org/12-facts-at-12-weeks/#:~:text=5\)%20The%20fetus,week%20of%20gestation](https://lozierinstitute.org/12-facts-at-12-weeks/#:~:text=5)%20The%20fetus,week%20of%20gestation) (viewed Apr. 12, 2026).

⁴³ <https://www.mayoclinic.org/healthy-lifestyle/pregnancy-week-by-week/in-depth/prenatal-care/art-20045302> (viewed Apr. 12, 2026).

⁴⁴ <https://www.acog.org/womens-health/faqs/how-your-fetus-grows-during-pregnancy> (viewed Apr. 12, 2026).

⁴⁵ <https://lozierinstitute.org/wp-content/uploads/2022/09/Science-of-Fetal-Pain-Fact-Sheet-Fall-2022.pdf> (viewed Apr. 12, 2026).

⁴⁶ <https://www.acog.org/womens-health/faqs/how-your-fetus-grows-during-pregnancy> (viewed Apr. 12, 2026).

⁴⁷ *Id.*

- n. The youngest premature baby to survive was born at 21 weeks' and 1 day gestation.⁴⁸

Induced Abortions in Ohio (2025 Report)

COMPLETED WEEKS OF GESTATION		
Less than 9 Weeks	18,353	73.0
9 - 12 Weeks	4,504	17.9
13 - 19 Weeks	1,985	7.9
20 Weeks and Over	293	1.2
Not Reported	0	0.0

Chart from: *Ohio Department of Health Induced Abortions in Ohio 2025 Report*⁴⁹

15. According to the *Ohio Department of Health Induced Abortions in Ohio 2025 Report*, there were 25,135 abortions in Ohio in 2025,⁵⁰ a 15% increase from 2024.

- a. That's an increase of 3,300 abortions over 2024, the highest number since the abortion referendum in 2023.⁵¹
- b. 95.9 percent of abortions are performed for elective reasons on healthy mothers and healthy babies.⁵²

⁴⁸ <https://lozierinstitute.org/fetal-development/weeks-21-and-22/#:~:text=The%20Age%20of,and%20thrive.10> (viewed Apr. 12, 2026).

⁴⁹ <https://www.stateneews.org/government-politics/2026-03-02/annual-ohio-abortion-report-shows-over-a-fifth-of-patients-were-from-other-states> (viewed Apr. 12, 2026).

⁵⁰ <https://dam.assets.ohio.gov/image/upload/odh.ohio.gov/programs/vital-statistics/abortion-reports/Induced-abortion-in-ohio-2025.pdf> (viewed Apr. 12, 2026).

⁵¹ <https://www.stateneews.org/government-politics/2026-03-02/annual-ohio-abortion-report-shows-over-a-fifth-of-patients-were-from-other-states> (viewed Apr. 12, 2026).

⁵² <https://lozierinstitute.org/fact-sheet-reasons-for-abortion/#:~:text=Elective%20and%20unspecified%20reasons%3A%2095.9%25%5B9%5D> (viewed Apr. 12, 2026).

16. According to the *Ohio Department of Health Induced Abortions in Ohio 2025*

Report, there were 9,751 women who had repeat induced abortions.⁵³

- a. 5601 had at least one prior abortion
- b. 2,350 had at least two prior abortions
- c. 936 had at least three prior abortions
- d. 450 had at least four prior abortions
- e. 204 had at least five prior abortions
- f. 93 had at least six prior abortions
- g. 53 had at least seven prior abortions
- h. 35 had at least eight prior abortions
- i. 11 had at least nine prior abortions
- j. 8 had at least ten prior abortions
- k. 5 had at least eleven prior abortions
- l. 5 had between 13 to 16 prior abortions⁵⁴

17. According to the *Ohio Department of Health Induced Abortions in Ohio 2025*

Report, there were 2,278 abortions in Ohio after the first three months (the first trimester/12 weeks).⁵⁵

⁵³ <https://dam.assets.ohio.gov/image/upload/odh.ohio.gov/programs/vital-statistics/abortion-reports/induced-abortion-in-ohio-2025.pdf> (viewed Apr. 12, 2026).

⁵⁴ *Id.*

⁵⁵ *Id.*

- a. There is substantial evidence that unborn babies are capable of experiencing pain by at least 15 weeks of gestation, and as early as 12 weeks.⁵⁶
- b. Dismemberment abortions are typically performed in the second trimester.⁵⁷
- c. By the early second trimester, the unborn baby has begun to develop fingernails, has started practicing breathing in the womb, and begins making conscious movements. At 15 weeks, an unborn baby's skeleton would be visible on an X-ray.⁵⁸
- d. Supreme Court Justice Anthony Kennedy provided the following description of **Dilation and Evacuation Abortion** based on testimony from an abortionist: "[T]he D&E procedure requires the abortionist to use instruments to grasp a portion (such as a foot or hand) of a developed and living fetus and drag the grasped portion out of the uterus into the vagina. [The abortionist] uses the traction created by the opening between the uterus and vagina to dismember the fetus, tearing the grasped portion away from the remainder of the body. ... The fetus, in many cases, dies just as a human adult or child would: It bleeds to death as it is torn from [sic] limb from limb."⁵⁹

⁵⁶ <https://lozierinstitute.org/wp-content/uploads/2022/09/Science-of-Fetal-Pain-Fact-Sheet-Fall-2022.pdf> (viewed Apr. 12, 2026).

⁵⁷ <https://lozierinstitute.org/fact-sheet-dismemberment-abortion/> (viewed Apr. 12, 2026).

⁵⁸ https://lozierinstitute.org/fact-sheet-dismemberment-abortion/#_ftn17 (viewed Apr. 12, 2026).

⁵⁹ *Stenberg v. Carhart*, 530 U.S. 914 (2000) (Kennedy, J., dissenting).

<https://www.law.cornell.edu/supct/html/99-830.ZD2.html> (viewed Apr. 12, 2026).

18. According to the *Ohio Department of Health Induced Abortions in Ohio 2025*

Report, there were 293 abortions in Ohio five months (20 weeks) or older.⁶⁰

- a. Research shows that many third trimester abortions are performed for the same reasons as abortions earlier in pregnancy,⁶¹ including financial stressors, relationship problems, and education concerns.⁶²
- b. Most partial birth abortions occur between 15-26 weeks gestation.
- c. Testifying for Ohio's bill to ban Partial Birth Abortion was Eyewitness Brenda Shafer, RN, a nurse from Dayton, Ohio, who assisted in a **Partial Birth Abortion**. She testified before the Congressional Judiciary Subcommittee on the Constitution on March 21, 1996. Below is an excerpt of that testimony:

“I am a registered nurse, licensed in the State of Ohio, with 14 years of experience. In 1993, I was employed by Kimberly Quality Care, a nursing agency in Dayton, Ohio. In September, 1993, Kimberly Quality Care asked me to accept assignment at the Women's Medical Center, which is operated by Dr. Martin Haskell. I readily accepted the assignment because I was at that time very pro-choice. I had even told my teenage daughters that if one of them ever got pregnant at a young age, I would make them get an abortion. They disagreed with

⁶⁰ <https://dam.assets.ohio.gov/image/upload/odh.ohio.gov/programs/vital-statistics/abortion-reports/induced-abortions-in-ohio-2025.pdf> (viewed Apr. 12, 2026).

⁶¹ <https://lozierinstitute.org/fact-sheet-abortion-up-to-birth/#:~:text=Although%20media%20coverage,as%20earlier%20abortions%2C> (viewed Apr. 12, 2026).

⁶² <https://lozierinstitute.org/the-reality-of-late-term-abortion-procedures/> (viewed Apr. 12, 2026).

me on this, and one of them even wrote an essay for a high school class that mentioned how we differed on the issue.

So, because of the strong pro-choice views that I held at that time, I thought this assignment would be no problem for me.

But I was wrong. I stood at a doctor's side as he performed the partial-birth abortion procedure-- and what I saw is branded forever on my mind.

I was present for three of these partial-birth procedures. It is the first one that I will describe to you in detail.

The mother was six months pregnant (26 1/2 weeks). A doctor told her that the baby had Down Syndrome and she decided to have an abortion. She came in the first two days to have the laminaria inserted and changed, and she cried the whole time. On the third day she came in to receive the partial-birth procedure.

Dr. Haskell brought the ultrasound in and hooked it up so that he could see the baby. On the ultrasound screen, I could see the heart beating. As Dr. Haskell watched the baby on the ultrasound screen, the baby's heartbeat was clearly visible on the ultrasound screen.

Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's

body and the arms-- everything but the head. The doctor kept the baby's head just inside the uterus.

The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall.

The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp. I was really completely unprepared for what I was seeing. I almost threw up as I watched the doctor do these things.

Mr. Chairman, I read in the paper that President Clinton says that he is going to veto this bill. If President Clinton had been standing where I was standing at that moment, he would not veto this bill.

Dr. Haskell delivered the baby's head. He cut the umbilical cord and delivered the placenta. He threw that baby in a pan, along with the placenta and the instruments he'd used. I saw the baby move in the pan. I asked another nurse and she said it was just "reflexes."

I have been a nurse for a long time and I have seen a lot of death-- people maimed in auto accidents, gunshot wounds, you name it. I have seen surgical procedures of every sort. But in all my professional years, I had never witnessed anything like this.

The woman wanted to see her baby, so they cleaned up the baby and put it in a blanket and handed the baby to her. She cried the whole time, and she kept saying, "I'm so sorry, please forgive me!" I was crying too. I couldn't take it. That baby boy had the most perfect angelic face I have ever seen.

I was present in the room during two more such procedures that day, but I was really in shock. I tried to pretend that I was somewhere else, to not think about what was happening. I just couldn't wait to get out of there. After I left that day, I never went back. These last two procedures, by the way, involved healthy mothers with healthy babies.

I was very much affected by what I had seen. For a long time, sometimes still, I had nightmares about what I saw in that clinic that day."⁶³

19. Abortion takes the life of a living human being. The inhumane and barbaric methods were performed on 25,135 fellow living human beings in Ohio in 2025.⁶⁴

- a. In addition to Dismemberment Abortions (where the live child is torn apart limb by limb) and Partial Birth Abortions, (where the child, who delivered except for the head) has his or her brain suctioned out, here are some of the other methods:

⁶³ <https://www.oocities.org/wr6602/PBA/PBANurse.html> (viewed on Apr. 12, 2026).

⁶⁴ <https://dam.assets.ohio.gov/image/upload/odh.ohio.gov/programs/vital-statistics/abortion-reports/induced-abortions-in-ohio-2025.pdf> (viewed on Apr. 12, 2026).

- i. **Chemical Abortions:** Used through the 10th week of pregnancy, RU-486 is a two-drug regimen. The first pill, mifepristone, is a synthetic steroid that blocks the hormone progesterone. This is intended to kill the preborn baby through starvation before his/her expulsion. Women then take a second drug, misoprostol (which is a synthetic prostaglandin), around 72 hours later to induce contractions and expel the dead baby.⁶⁵ *Ella*, an abortion drug which is falsely labeled as birth control, works in the same way.⁶⁶
- ii. **Suction Abortion**, the most common method of surgical abortion in the first 12 weeks of pregnancy: A strong suction (29 times more powerful than a household vacuum cleaner) tears the baby's body apart and sucks it from the uterus through a hose.⁶⁷
- iii. **Dilation & Curettage (D&C):** Used through the 12th week of pregnancy. After dilating the cervix, a curette (a loop-shaped knife) is inserted into the uterus to cut the baby's body into pieces. The remains of the child are then extracted, often by suction.⁶⁸

20. The *Ohio Department of Health Induced Abortions in Ohio 2025 Report* listed complications to abortion in 2025 including:

- a. 75 "failed" abortions

⁶⁵ <https://studentsforlife.org/learn/abortion-procedures/> (viewed Apr. 12, 2026).

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

- b. 81 Incomplete abortions
- c. Infection, Hemorrhage, Hematometra, Perforated uterus, among others.
- d. Uterine or cervical damage from surgical abortion may cause problems in future pregnancies, severe damage may cause infertility.⁶⁹

21. The heartbeat is the universally recognized indicator of life used around the world to determine if someone is alive. The standard of care for any patient with a detectable heartbeat is to assume they are alive and deserving of care. Yet, according to the *Ohio Department of Health Induced Abortions in Ohio 2025 Report*, the heartbeat is being disregarded and ignored.⁷⁰

- a. As the first chart below indicates, in 24,131 abortions the heartbeat was either detected (4,480) or “not reported” (19,651), a violation of the Ohio Heartbeat Law, which requires testing for the heartbeat of the unborn child and prohibits abortion if a heartbeat is detected except in cases of medical emergency. The abortion took place for a child with a detectable (or not reported) heartbeat 96 percent of the time.⁷¹
- b. The Ohio Department of Health report (the second chart) also shows that the abortion was performed on a baby with a detectable heartbeat when there was *no medical emergency* (4,363) or *no medical emergency reported* (20,671). In 99.6 percent of the cases, despite there being no recorded

⁶⁹ <https://tinyurl.com/2keyzfxk> (viewed Apr. 12, 2026).

⁷⁰ <https://dam.assets.ohio.gov/image/upload/odh.ohio.gov/programs/vital-statistics/abortion-reports/induced-abortions-in-ohio-2025.pdf> (viewed Apr. 12, 2026).

⁷¹ *Id.*

medical emergency, the child was aborted in violation of the Ohio Heartbeat Law.⁷²

Table 18. Induced Abortions Reported in Ohio, Examination and Assessment, 2025

Effective June 24, 2022, and pursuant to O.R.C. 2919.192 and O.A.C. 3701-47-07, the examination and assessment portion of the confidential abortion report must be completed. The detection of a fetal heartbeat combined with the clinical estimate of gestational age will determine the number of fields that will need to be completed on the Confidential Abortion Report.

CHARACTERISTICS	2025	PERCENT
Total Induced Abortions	25,135	100.0
WAS A FETAL HEARTBEAT DETECTED?		
Yes	4,480	17.8
No	1,004	4.0
Not Reported	19,651	78.2

Chart from: *Ohio Department of Health Induced Abortions in Ohio 2025 Report*⁷³

Was this procedure induced, performed, or attempted because of a medical necessity or medical emergency (i.e. to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman)?

	NUMBER	PERCENT
Yes	101	0.4
No	4,363	17.4
Not Reported	20,671	82.2

Chart from: *Ohio Department of Health Induced Abortions in Ohio 2025 Report*⁷⁴

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

Under penalty of perjury, I hereby declare and affirm that the above-mentioned statement is, to the best of my knowledge, true and correct.

Affiant's Signature _____

[Handwritten Signature]

Date: _____

4-30-26

STATE OF OHIO)

) ss.

COUNTY OF LORAIN)

Subscribed and sworn to (or affirmed) before me on this 30 of APRIL, 2026, by James Matheson, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

WITNESS my hand and official seal.



MARKIE LEE PASTOR
Notary Public
State of Ohio
Certificate # 2023-RE-669284
My Commission Expires
November 05, 2028

Signature _____

[Handwritten Signature: Markie Lee Pastor]

My Commission Expires: _____

11/05/2028

EXHIBIT B

3. **Purpose of Affidavit:** I submit this affidavit to provide medical and biological perspective relevant to the question of when human life begins, based on my training, clinical experience, and understanding of human physiology and developmental biology.
4. **Biological Basis of Human Life:** It is my professional opinion, grounded in established principles of human biology and embryology, that human life begins at conception. At the moment of fertilization, a new organism is formed with a unique genetic identity (DNA), distinct from that of both the mother and the father. This zygote represents the earliest stage of a continuous and coordinated developmental process that, if uninterrupted, progresses through embryonic and fetal stages to birth and beyond. This is not a theoretical construct but a biological reality: from its first moment, this organism is already fully human in kind, requiring only time and nourishment to express the capacities inherent within it. Nothing new is added later to make it "human"—it already is.
5. **Individuality of the Fetus:** From a medical and biological standpoint, the fetus is not merely an anatomical extension of the mother's body. Rather, it is a distinct and developing human organism. This is evidenced by its unique genetic code, its coordinated pattern of growth and development, and its capacity for independent biological activity within the maternal environment. To describe the fetus as part of the mother is biologically imprecise; it is more accurate to say that two distinct human organisms exist in a uniquely interdependent relationship. The fetus is not a potential life—it is a life with potential.
6. **Cardiac Activity as Evidence of Life:** The presence of cardiac activity, commonly referred to as a heartbeat, is widely recognized in medicine as a fundamental indicator of life. In clinical practice, the presence or absence of cardiac activity is a primary determinant in assessing whether an individual is alive or deceased. The first cardiac contractions in a human fetus begin around 3-4 weeks after fertilization, reflecting coordinated tissue-level function. The detection of cardiac activity in the developing fetus is, in my professional opinion, compelling evidence of biological life.

While early embryonic cardiac function differs structurally from that of a fully developed heart, it nevertheless represents organized, coordinated activity characteristic of a living organism. In every other medical context, the presence of coordinated cardiac activity compels us to recognize life; it would be inconsistent to apply a different standard simply because that life is at an earlier stage of development.

7. **Continuity of Development:** There is no scientifically distinct point between conception and birth at which a non-living entity becomes living. Rather, human development is a continuous and progressive process. From a medical perspective, the criteria we use to define life in born individuals—such as metabolic activity, growth, responsiveness, and cardiac function—are all present in developing form well before birth. The differences between the unborn child and the born individual are differences of degree, not of kind. Development does not transform something non-human into human; it is the orderly maturation of a human being already in existence. Differences in level of awareness, intellect or physical ability do not make a person more or less human at any stage of life.

8. **Conclusion:** Based on my education, training, and professional experience it is my considered medical opinion that:

- a. Human life begins at conception.
- b. The fetus is a distinct human organism with its own unique DNA and human physiology.
- c. The presence of cardiac activity is a requisite indicator of life.
- d. These conclusions are consistent with standard biological principles of organismal life and are based on widely accepted scientific evidence within the disciplines of human embryology and physiology.

In my professional opinion, the biological characteristics described above are consistent with those of a living human organism. Within the practice of medicine, human life—at all stages of development—is accorded respect and clinical consideration. These

