

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

PLANNED PARENTHOOD SOUTH	)	
ATLANTIC, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	Case No. 1:23-cv-00480-CCE-LPA
v.	)	
	)	
JOSHUA STEIN, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**PLAINTIFFS’ MOTION FOR A TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

Plaintiffs Planned Parenthood South Atlantic and Beverly Gray, M.D., hereby move, pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65.1, for a temporary restraining order and preliminary injunction enjoining enforcement of the entirety of Part I and the hospitalization requirement (to be codified at N.C. Gen. Stat. § 90-21.82A) of Part II<sup>1</sup> of North Carolina Session Law 2023-14 (“S.B. 20” or “the Act”), the relevant provisions of which, without the relief requested in this motion, will take effect on July 1, 2023.

A temporary restraining order and a preliminary injunction are justified and supported by the facts and authorities set forth in the accompanying Memorandum of Law and the Declaration of Katherine Farris, M.D., in support of this Motion, which show that Plaintiffs meet all of the elements required for preliminary injunctive relief: (1) Plaintiffs

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<sup>1</sup> It is unclear whether section 90-21.82A takes effect on July 1, 2023, or October 1, 2023. If this provision does not take effect until October 1, 2023, Plaintiffs move only for a preliminary injunction and not a temporary restraining order on this provision.

are likely to prevail on the merits of their Due Process, Equal Protection, and First Amendment claims as set out in their complaint; (2) Plaintiffs and their patients will suffer irreparable injury without the injunction; (3) the injury to Plaintiffs and their patients outweighs any injury the injunction will cause the Defendants; and (4) an injunction furthers the public interest. A temporary restraining order is particularly warranted to preserve the status quo while the Court reviews the issues raised in this case and is necessary to prevent health risks for North Carolinians in need of abortion care as well as to minimize confusion for patients, providers, and people who wish to assist others in obtaining abortions.

Plaintiffs respectfully request that this Court immediately grant the temporary restraining order requested and grant them the opportunity to present oral argument in support of a preliminary injunction. Oral argument is warranted due to the important constitutional concerns raised by the motion and the imminent irreparable harm faced by the Plaintiffs and their patients seeking abortions if injunctive relief is not granted.

Pursuant to Fed. R. Civ. P. 65(b), counsel certify that they emailed counsel for Defendants at approximately 9:45 a.m. today, June 21, 2023, to notify them of Plaintiffs' intent to file this Motion today. Promptly upon filing, they will also send, via email to the same counsel, copies of this motion and accompanying filings.

Dated: June 21, 2023

Respectfully submitted,

*s/ Peter Im*

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## CERTIFICATE OF SERVICE

I hereby certify that, on June 21, 2023, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing, and will also serve this motion on counsel for Defendants via email, as well as via certified U.S. mail at the addresses listed below if Defendants' counsel has not agreed to email-only service:

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**[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION FOR A  
TEMPORARY RESTRAINING ORDER**

This matter comes before the Court on Plaintiffs’ Motion for a Temporary Restraining Order (“TRO”) and Preliminary Injunction. Upon consideration of Plaintiffs’ motion, the arguments and legal authority therein, and the factual record before it, this Court finds and concludes for the specific reasons required under Federal Rule of Civil Procedure 65(d) that a TRO should be entered. As discussed below, Plaintiffs have shown (1) a likelihood of success on the merits of their claim, (2) that they and their patients will suffer irreparable harm if an injunction is not issued, and (3) that the balance of harm and the public interest weigh in favor of granting the temporary restraining order.

Specifically, Plaintiffs have shown that they are likely to prevail on their claims that the entirety of Part I and the hospitalization requirement (to be codified at N.C. Gen. Stat. § 90-21.82A) of Part II of North Carolina Session Law 2023-14 (“S.B. 20” or “the Act”) are unconstitutionally vague. Part I and the hospitalization requirement of Part II of the Act likely violate due process because they create confusion about whether abortion care

permitted under the statute is also exempted from the fetal homicide statute. Plaintiffs have also shown that they are likely to prevail on their claims that these sections violate due process because they impose requirements upon Plaintiffs that are impossible to comply with and because they impose contradictory requirements; that sections of the Act violate equal protection by irrationally singling out abortion providers and their patients; and that sections of the Act may be interpreted in ways that violate the First Amendment.

The Court further finds that, absent a TRO, Plaintiffs will suffer irreparable harm in the form of deprivations of their constitutional rights by being subjected to the Act's vague, confusing, and impossible-to-comply-with provisions that nevertheless impose harsh civil and criminal penalties for noncompliance; laws that irrationally subject Plaintiffs and their patients to differential treatment; as well as by laws that curtail their First Amendment freedoms. The Court also finds that Plaintiffs' patients will suffer irreparable harm in the form of harm to their physical and mental health as a result of the Act.

Finally, the Court finds that, the balance of equities and public interest weigh in favor of injunctive relief. While Plaintiffs and their patients will face serious harm in the absence of an injunction, Defendants will not be harmed by delaying enforcement of the Act, which is likely unconstitutional.

WHEREFORE, it is hereby ORDERED that Plaintiffs' Motion for a Temporary Restraining Order is GRANTED.

IT IS FURTHER ORDERED that Defendants and their agents and successors in office are hereby ENJOINED from enforcing—by civil action, criminal proceeding,



administrative action or proceeding, or in any other way—the entirety of Part I and the hospitalization requirement of Part II of S.B. 20 until July \_\_, 2023.

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The Honorable Catherine C. Eagles  
United States District Judge

Dated: June \_\_\_\_, 2023