

IN THE SUPREME COURT OF THE STATE OF IDAHO

PLANNED PARENTHOOD GREAT
NORTHWEST, HAWAII, ALASKA, INDIANA,
KENTUCKY, on behalf of itself, its staff,
physicians and patients, and CAITLIN
GUSTAFSON, M.D., on behalf of herself and her
patients,

Petitioners,

v.

STATE OF IDAHO; BRAD LITTLE, in his
official capacity as Governor of the State of Idaho;
LAWRENCE WASDEN, in his official capacity as
Attorney General of the State of Idaho; JAN M.
BENNETTS, in her official capacity as Ada County
Prosecuting Attorney; GRANT P. LOEBS, in his
official capacity as Twin Falls County Prosecuting
Attorney; IDAHO STATE BOARD OF
MEDICINE; IDAHO STATE BOARD OF
NURSING; and IDAHO STATE BOARD OF
PHARMACY,

Respondents.

Supreme Court Docket No. 49899-2022

**PETITION FOR LEAVE TO INTERVENE BY IDAHO LEGISLATURE AS TO
PETITIONER'S CHALLENGE TO IDAHO CODE SECTIONS 18-8804 AND 18-8805**

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PETITIONER’S CHALLENGE TO IDAHO CODE SECTIONS 18-8804 AND 18-8805**

The Speaker of the House of Representatives for the State of Idaho, Scott Bedke, Senate President Pro Tempore Chuck Winder, and the Sixty-Sixth Idaho Legislature (collectively the “Legislature”) seek to intervene in this action to defend the constitutionality of Idaho Code §§ 18-8804 and 18-8805 pursuant to Idaho Code § 67-465 and Idaho Appellate Rule 7.

As this Court certainly appreciates, this is the third time since March 30, 2022, that Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, Kentucky, and Caitlin Gustafson, M.D., (referred to herein collectively as “Petitioners”) are attempting to invalidate an Idaho statute regulating abortion in Idaho. In this third petition, Petitioners allege “Idaho Code Sections 18-8804 and 18-8805 ... are unlawful and unenforceable under the Idaho Constitution and the Idaho Human Rights Act...”). *See* Petition for Writ of Prohibition and Application for Declaratory Judgment, p.1 (referred to as the “Third Petition”); *see also* *Planned Parenthood Great Northwest, et al. v. State of Idaho*, Idaho Supreme Court Docket No. 49615-2022 (“First Petition”) (filed on March 30, 2022), and *Planned Parenthood Great Northwest et al. v. State of Idaho*, et al, Idaho Supreme Court Docket No. 49817-2022 (“Second Petition”) (filed on June 27, 2022). The Legislature is an intervenor in the First Petition and is seeking intervention in the Second Petition, also on the basis of Idaho Code § 67-465.

Here, where Petitioner’s Third Petition also challenges the constitutionality of an Idaho statute, the Legislature is similarly entitled to intervene. Idaho Code § 67-465 provides:

When a party to an action challenges in state or federal court the constitutionality of an Idaho statute, facially or as applied, challenges an Idaho statute as violating or being preempted by federal law, or otherwise challenges the construction or validity of an Idaho statute, either or both houses of the legislature may intervene in the action as a matter of right by serving a motion upon the parties as provided in state or federal rules of civil procedure, whichever is applicable.

See Idaho Code § 67-465.

Petitioners' Third Petition is directly attacking the constitutionality and validity of Idaho Code §§ 18-8804 and 18-8805. Thus, the Legislature's intervention is appropriate and consistent with Idaho law.

The Legislature appreciates that Petitioners have moved to expedite briefing and argument as to the Third Petition. *See* Petitioners' Motion to Expedite Briefing and Argument for Verified Petition. The Legislature is prepared to comply with all timeframes and deadlines set by this Court and, accordingly, the Legislature's request to be an intervenor will not cause any delay to the procedural posture of this case.

The Legislature respectfully requests leave to intervene.

Dated this 28th day of July, 2022.

MORRIS BOWER & HAWS PLLC

/s/ Daniel W. Bower

Daniel W. Bower

/s/ Monte Neil Stewart

Monte Neil Stewart

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CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2022, I filed and served the foregoing via the Odyssey File and Serve system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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