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April 15, 2020

Hon. Andy Beshear
Governor of Kentucky
Office of the Governor of Kentucky
700 Capital Ave., Ste. 100
Frankfort, KY 40601

VIA ELECTRONIC MAIL

Governor Beshear:

We are writing to ask that you veto Senate Bill 9, an extreme anti-abortion bill that was passed by the General Assembly on the last day of the legislative session. This bill is yet another attempt by the General Assembly to make abortion completely inaccessible for all Kentuckians, regardless of their personal circumstances.

Senate Bill 9, as passed, contains provisions that were originally found in the proposed House Bill 451. These provisions, which were added on the last day of the session, would allow the Attorney General to shut down abortion providers during the ongoing COVID-19 state of emergency. Attorney General Cameron has made clear he is ready to do so once he is given this authority.¹

Abortion is time-sensitive and essential healthcare that cannot be delayed. Trusted health organizations, such as the American College of Obstetrics and Gynecology (ACOG), have made clear that politicians should not push COVID-19 responses that cancel or delay abortion procedures.² Any delay may cause mental or physical health risks³, or make the procedure completely inaccessible, as no one can seek an abortion in Kentucky after 20 weeks, even Kentuckians with serious fetal anomalies diagnosed later in pregnancy. Contrary to the arguments of anti-abortion activists, banning abortion would not help in the fight against COVID-19. Banning abortion would not free up hospital space, since the vast majority of abortions do not take place in a hospital.

¹ <https://kentucky.gov/Pages/Activity-stream.aspx?n=AttorneyGeneral&prId=889>

² <https://www.acog.org/news/news-releases/2020/03/joint-statement-on-abortion-access-during-the-covid-19-outbreak>

³ See, e.g., Nat'l Acads. Of Scis. Eng'g & Med., *The Safety & Quality of Abortion Care in the United States* at 77-78, 162-63 (2018).



It also would not free up personal protective equipment for use in treating those afflicted by COVID-19, as has been made clear in the pending lawsuits challenging COVID-19-related abortion bans in other states.⁴ Lawmakers are simply trying to use this public health crisis as an excuse to block all access to abortion in Kentucky.

Additionally, giving the Attorney General this authority would undermine the important role that the Executive Branch plays in overseeing Kentucky's healthcare providers, and will likely be weaponized against abortion providers by the current Attorney General. This bill is a blatant power grab by politicians attempting to enact an anti-abortion agenda, as evidenced by the fact that the Attorney General is not being given an oversight role for *anything but* abortion providers.

Health care providers are currently under the appropriate supervision of career healthcare experts at the Cabinet for Health and Family Services (CHFS). This bill would allow the Attorney General to revoke an abortion provider's license or take them to court, even if CHFS, upon investigation and review, finds an abortion provider to be compliant with all relevant state and federal laws and regulations. Moreover, the Attorney General could also seek civil or criminal penalties to "prevent, penalize, and remedy" alleged violations of the statutes. Supervision of abortion providers should be left to the employees of CHFS, who actually have the expertise to oversee healthcare facilities, not undermined by the political whims of an anti-abortion Attorney General.

The other, original provisions of Senate Bill 9 are a solution in search of a non-existent problem. The sponsor of the bill, Senator Whitney Westerfield, admitted that he knows of not one instance of the situation described in the bill occurring in Kentucky. This is a bill based on inflammatory rhetoric and false claims, and has nothing to do with how abortion care actually works. Bills like this perpetuate myths and lies about abortion care, the patients who receive this care, and the doctors who provide this safe, legal, constitutionally-protected care. Most troublingly, SB 9 could violate patient privacy and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). If a situation like that

⁴ See, e.g., Plaintiff's Motion for and Brief in Support of Temporary Restraining Order and/or Preliminary Injunction at 7-8, *Preterm Cleveland, Inc. v. Yost*, No. 1:19-cv-00360 (S.D. Ohio Mar. 30, 2020), ECF No. 42.



described in the statute were to occur - though there is no evidence that it ever has - physicians would be *required* to file birth and death certificates. There is no way to file those certificates without the patient's name becoming public record. This bill is yet another attempt by the General Assembly to interfere in the deeply personal and often complex decisions facing pregnant Kentuckians.

Decisions about pregnancy are personal and can be complicated. The best person to make decisions about a pregnancy is the pregnant person themselves. SB 9 is a blatant attempt by the General Assembly to push abortion care completely out of reach for all Kentuckians with no exceptions, even for Kentuckians who are pregnant as a result of rape, incest, or domestic violence, or who have a serious fetal diagnosis. On top of these attacks on Kentuckians' civil liberties, lawmakers took significant legislative action on this bill when the Capitol was closed to the public due to the ongoing pandemic. Regardless of the outcome, there should always be an opportunity for robust public engagement any time the General Assembly engages in legislative activity, particularly around an issue as contentious as abortion. These bills were passed behind closed doors at a time when Kentuckians could not fully and safely – and were not even allowed to – participate in their democracy.

We urge you to continue prioritizing the health of all Kentuckians by vetoing these dangerous bills that will put the health of pregnant people at risk.

Thank you for your consideration of this request. I hope you, your family, and your staff are healthy and well.

Sincerely,

Jackie McGranahan
Field Organizer, Reproductive Freedom Project