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Attorney General Marshall Files Emergency Stay and Appeal of Preliminary Injunction of State Health Order Relating to Abortion Procedures

(MONTGOMERY) – Attorney General Steve Marshall is appealing to the 11th U.S. Circuit of Appeals after a recent federal district court order partially enjoined enforcement of Alabama’s COVID-19 health order as it relates to abortion procedures.

“My office today filed for an emergency stay of the preliminary injunction order partially blocking enforcement of the State health order while we simultaneously asked the 11th U.S. Circuit Court of Appeals to hear our appeal of the federal district court ruling,” said Attorney General Marshall.

“In response to the COVID-19 pandemic, State Health Officer Dr. Scott Harris issued an emergency health order temporarily halting all dental, medical, or surgical procedures that are not necessary to treat emergency medical conditions or avoid serious harm to patients. This order covers all elective medical procedures, including abortions. The purposes of the order are to promote social distancing and ensure that scarce healthcare resources – including personal protective equipment for medical providers – are available for the fight against COVID-19.

“Abortion clinics responded by suing the State of Alabama claiming that the health order was an effective abortion ‘ban’ and seeking a special blanket exemption from the order. But the State health order does not single out abortions or treat them differently from any other procedure. It simply requires abortion providers to follow the same regulations that apply to everyone else.”

On April 12, the Federal Court for the Middle District of Alabama granted a preliminary injunction that partially bars the State’s enforcement of the health order as it relates to abortion procedures, a development which raises the prospect of federal court review of subsequent State health orders and enforcement actions.

“Abortion providers’ attempts to obtain special treatment under the emergency health orders – orders the district court recognized are facially constitutional – create a potentially dangerous limitation upon the ability of the State to further respond to the coronavirus pandemic,” said Attorney General Marshall.

“Therefore, we have asked the 11th U.S. Circuit Court of Appeals to issue an emergency stay of the lower court ruling which jeopardizes the State’s ability to effectively implement health orders during the historic COVID-19 pandemic while the State pursues its appeal to overturn the ruling.”

[Link to State motion](#) for emergency stay

[Link to State motion](#) for appeal

