



THE NATIONAL CATHOLIC BIOETHICS CENTER

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Bioethics and Public Policy Report

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The *National Scene*: NCBC has joined nine other organizations in filing public comment concerning the proposal by the U.S. Department of Housing and Urban Development: Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs. The proposed regulations would forbid discrimination on the basis of "gender identity." 80 Fed. Reg. at 72648–49 [§ 5.106]. The regulations define the term "gender identity" as "the gender with which a person identifies, regardless of the sex assigned to that person at birth." *Id.* at 72648 [§ 5.100]. The proposal would mandate that a man who asserts that he is a woman may not be refused access to shared women's sleeping quarters and bathing areas. Similarly, a woman who asserts that she is a man may not be refused access to shared men's sleeping quarters and bathing areas. The ten organizations are expressing concern for the privacy needs and sense of perceived security by persons whom they serve, be it in shelters or the variety of housing services in which vulnerable populations are served by Catholic Charities and others, if these regulations are promulgated. ♦ The NCBC has issued a statement on the Zika virus concerns: [Zika Does Not Justify Abortion or Contraception](#). ♦ The U.S. Supreme Court is hearing the Appeal of a lower court decision requiring the Diocese of Pittsburgh and six other petitioners (*Zubik v. Burwell*) to provide contraceptive and abortifacient coverage ([Contraceptive Mandate](#)) to their employees in violation of their religious liberty.

The State of *Conscience/Religious Liberty*: The [West Virginia](#) Legislature is considering a Religious Freedom Restoration Act, known as a RFRA, that has passed the house and has been referred to the Senate Judiciary Committee. ♦ The Appellate Division of the New York State Supreme Court has denied [Liberty Ridge Farm's](#) appeal of a \$13,000 state Division of Human Rights fine for refusing to host at the tourism farm a wedding for a lesbian couple. ♦ The [Washington State](#) Legislature is considering two proposals in support of religious liberty: one that would retroactively protect the conscience rights of business owners who do not wish to cooperate with same-sex marriages; the other would override a new state ruling that requires public places to

allow transgender people to use the bathroom for the gender with which they identify. ♦ A [Missouri](#) County Circuit Court has ruled that the Catholic Diocese of Kansas City–St. Joseph has a First Amendment right to make employment decisions when challenged by a female employee married to a woman. ♦ The [Virginia](#) House of Delegates has passed a bill prohibiting government agencies from penalizing individuals and businesses that act in accordance with their religious convictions on homosexuality and transgenderism. ♦ The [Texas](#) Legislature is considering a proposal to protect the religious freedom of judges and clerks whose sincerely held religious beliefs would be compromised by performing a same–sex wedding. ♦ The Governor of [Georgia](#) vetoed legislation that would protect clergy from having to perform same–sex marriages and the conscience rights of faith–based agencies which do not wish to cooperate with same–sex marriages. ♦ The [Tennessee](#) Legislature is considering two proposals that would give counselors and therapists immunity from liability if they refuse non–emergency services to someone whose behaviors conflict with their religious beliefs. ♦ The U.S. 11th Circuit Court of Appeals has ruled that EWTN must violate its religious beliefs by providing contraceptive and abortifacient coverage to its employees under the HHS [Contraceptive Mandate](#), then immediately enjoined its decision pending an appeal by EWTN to the U.S. Supreme Court. ♦ The [Oklahoma](#) Legislature is considering a proposal that would prohibit the state from denying contracts to religious adoption agencies whose policies indicate that a child does best in a home with a mother and a father. ♦ A similar proposal is before the [Alabama](#) Legislature, with an additional provision for religious freedom protections for health care workers. ♦ [Missouri](#) citizens will have the opportunity to vote on a constitutional amendment this year which, if passed, would bar penalties for religious organizations “on the basis that the organization believes or acts in accordance with a sincere religious belief concerning marriage between two persons of the same sex,” and ensure that those who provide artistic products or services for weddings are not penalized due to sincerely held religious beliefs regarding same–sex marriage. A similar legislative proposal, protecting persons from government retaliation who wish to exercise their religious freedoms when asked to provide services in support of a same–sex union is before the [Kentucky](#) Legislature as well as the [Mississippi](#) Legislature. ♦ The [Alabama](#) Supreme Court affirmed an earlier order that judges are not to issue licenses for same–sex marriage. This was done in response to a petition from Liberty Counsel, initiated because a number of judges were not following the order of the Court. ♦ A U.S. District Court has refused to grant an injunction to the implementation of a [California](#) law forcing pro–life pregnancy crisis centers to give a client a phone number where she can schedule an abortion. ♦ The Governor of [New York](#) has issued an executive order banning private and public health insurers from covering gay conversion therapy for minors experiencing a homosexual orientation. ♦

The [Vermont](#) Legislature is considering a proposal that would retain the Contraceptive Mandate in that state even if the U.S. Congress repeals the law. ♦ The [American Bar Association](#) is considering a proposed ethics–rule change that would punish attorneys who support traditional marriage, in violation of the U.S. Constitution. ♦ The Employee Retirement Income Security Act ([ERISA](#)) exempts “church plans” from certain mandated requirements, including the Contraceptive Mandate, as well as employee retirement benefit mandates. A panel of the U.S 7th Circuit Court of Appeals has ruled that such retirement exemptions do not apply to church–affiliated organizations such as hospitals. ♦ Also, see **Recent *Good News***.

State by State: The [New York](#), [Massachusetts](#), [Rhode Island](#), and the [New Hampshire](#) Legislatures, again are considering proposals to allow physician–assisted death in those states. Such initiatives have failed in prior sessions. ♦ A similar initiative is before the [Nebraska](#) Legislature, but expected to be unsuccessful. ♦ The [Alabama](#) Legislature is considering several proposals: one bill would explicitly ban assisted suicide, making participation in an assisted death a felony; another would ban abortion after a fetal heartbeat is detectable. It also is advancing a proposal to ban [abortion](#) centers from being located near public schools. ♦ The U.S. Supreme Court refused to hear appeals of lower court decisions overturning an [Arkansas](#) ban on abortions after 12 weeks gestation, and a [North Dakota](#) ban after a fetal heartbeat can be detected. ♦ The [West Virginia](#) Legislature is considering a proposal to ban abortions that dismember a living fetus. ♦ The [New Mexico](#) Senate defeated a proposal to ban abortions after 20 weeks gestation (pain capable fetus). ♦ The [South Carolina](#) Legislature is advancing a proposal to ban abortions after 20 weeks gestation. ♦ The [Georgia](#) House of Representatives passed a bill that criminalizes the selling of aborted babies’ body parts in the state. The bill now goes to the state Senate for consideration. ♦ The [Kentucky](#) Legislature is advancing a proposal to require abortion clinics to meet health and safety requirements like other outpatient surgical centers, and to require abortion doctors to have hospital admitting privileges. ♦ The [Kansas](#) Legislature is advancing a proposal to prevent health care providers from secretly placing a Do Not Resuscitate order for children under 18 years of age without written consent of at least one parent or guardian. ♦ The [Florida](#) Legislature has enacted legislation requiring doctors performing abortions to have admitting privileges at nearby hospitals and requiring abortion centers to meet ambulatory surgery center standards, as well as tightening rules on disposal of aborted fetal tissue. ♦ The [Oklahoma](#) Legislature is advancing a bill mandating medical licensure officials to deny the renewing or granting of licenses to any doctors who do abortions. ♦ A U.S. District Court has temporarily enjoined the implementation of an [Arkansas](#) law which requires abortion facilities to follow Food and Drug Administration guidelines when administering chemical abortion drugs. ♦ The [Missouri](#) Legislature is considering a proposal to ban fetal dismembering

abortions, and its House of Representatives overwhelmingly passed a bill requiring [parental notification](#) for an abortion on a minor. ♦ The New [Hampshire](#) Legislature has voted against a bill that would have required doctors to provide care for babies born alive after failed abortion attempts. ♦ A [Kansas](#) Court of Appeals failed to overturn a lower court order which temporarily enjoined a law prohibiting dismembering dilation and curettage abortions. ♦ A Baton Rouge, [Louisiana](#) District Court has ruled against a state law which requires that abortionists have admitting privileges at a local hospital, that informed consent protections apply to all abortions, and that facilities that perform more than five abortions maintain proper licensing. The [5th U.S. Circuit Court of Appeals](#) has put a stay on this lower court decision, allowing the law to take effect, citing flawed findings of the lower court on the impact on women in that state. The stay has been reversed, temporarily, by the [U.S. Supreme Court](#). ♦ A U.S. District Court has ruled that the Governor of [Utah's](#) order to end funding to Planned Parenthood is not unconstitutional.

Recent *Good News*: The [Kansas](#) Catholic Conference organized a rally for religious freedom at the Kansas Capitol, with an estimated 1500–2000 persons attending. ♦ The [Colorado](#) Senate refused to endorse a proposal to legalize [physician-assisted-death](#) in that state. A [similar proposal](#) was defeated on the floor of the House. ♦ Also a similar initiative failed in [Maryland](#), [Minnesota](#), [Iowa](#), [Utah](#), Wisconsin, and [New Jersey](#), was stalled in [Arizona](#), and was not raised for hearing in the [Hawaii](#) and [Connecticut](#) Legislatures this year. ♦ The [Ohio](#), [Florida](#), and [Wisconsin](#) Legislatures have passed laws defunding the provision of state public dollars to Planned Parenthood, and the Governors of these states have signed them into law. Unfortunately, a similar provision was vetoed by the Governor of [Virginia](#). ♦ The [Oklahoma](#) Supreme Court upheld a law requiring abortion drugs to be used only under FDA protocols, protecting women from the potential complications associated with the RU486 abortion drug. ♦ The [Minnesota](#) Catholic Conference spearheaded a successful effort leading to the enactment of a prenatal diagnosis awareness act. This is the first in the nation law to include Trisomy 13 and 18 in a mandate that health care providers inform those receiving prenatal genetic counseling contact information for nonprofit organizations that provide information and support services for trisomy conditions. ♦ The [Governor of Indiana](#) has signed into law legislation which prohibits abortions based solely on disability, race or sex, restricts fetal tissue donation, and requires abortionists to have admitting privileges at a local hospital or to have an agreement with a doctor who does. ♦ The Governor of [Utah](#) has signed into law a provision requiring anesthesia for all elective abortions at 20 weeks or more gestation, to address pain control of the unborn child. ♦ The [West Virginia](#) Legislature has voted to override the Governor's veto of an enacted bill to ban dismembering abortions. ♦ The [Wisconsin](#) Governor has signed into law a prohibition against public entities distributing funds to any private,

non-profit entity that provides abortion services or has an affiliate that provides abortion services. ♦ The Governor of [Kentucky](#) has signed into law an informed consent statute, which requires women seeking an abortion to be provided information on its risks at least 24 hours prior to the procedure in a private setting with a medical professional. ♦ The [Indiana](#) Legislature has passed a bill providing free ultrasounds to women seeking abortions. ♦ The Governor of [North Carolina](#) has signed into law a prohibition against local governments enacting ordinances that allow a person of one gender to use an opposite gender bathroom, shower or locker room. The law, promulgated for public safety, has engendered significant opposition by those advocating for transgender rights.

Sharing Your Good News and Your Efforts: If there are public policy advocacy strategies which you wish to share with others, please e-mail mhilliard@ncbcenter.org.

Sharing of Resources: The web page of the National Catholic Bioethics Center is a significant resource in the realm of bioethics: www.ncbcenter.org. Also, bioethicists are on call twenty-four hours a day, every day of the week, for consultation by calling 215-877-2660.