



## THE NATIONAL CATHOLIC BIOETHICS CENTER

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### Bioethics Public Policy Report July 25, 2023

#### Federal Courts

- On July 8th, a three-judge panel of the Sixth Circuit Court of Appeals (Cincinnati) ruled [in favor](#) of the Tennessee law that bans hormonal and surgical interventions for the purpose of so-called transitioning of minors. The decision was 2–1. The appeals court action reversed a district court’s preliminary injunction and allows Tennessee’s law protecting minors to remain in effect while the legal challenge against it proceeds. The decision also signals that “Tennessee is likely to succeed” and that those challenging the law “lack a ‘clear showing’ that they will succeed on the merits.” The appeals court decision was based, in part, on the fact that so-called transitioning is experimental and the drugs used are not approved by the Food and Drug Administration (FDA) for this purpose. The majority opinion states: “‘There is no constitutional right to use a new drug that the FDA has determined is unsafe or ineffective.’ Therefore, state legislatures ‘are usually ‘entitled to a strong presumption of validity’ in regulating health and safety and are particularly entitled to deference from judges ‘where medical and scientific uncertainty exists.’”
- The Seventh Circuit Court of Appeals (Chicago) has [upheld](#) a lower court decision and ruled in favor of the Archdiocese of Indianapolis and Roncalli High School after the school chose to not renew the contract of a guidance counselor who had entered into a so-called same-sex marriage. Among other issues, the court held that Michelle Fitzgerald violated the contract she signed with the school requiring her “to uphold Church teaching in both word and deed.” Joseph Davis of the Becket Fund for Religious Liberty stated: “Religious schools exist to pass on the faith to the next generation, and to do that, they need the freedom to choose leaders who are fully committed to their religious mission. The precedent keeps piling up: Catholic schools can ask Catholic school teachers and administrators to be fully supportive of Catholic teaching.” Click [here](#) for additional information on the case.

#### State by State

- In a special session, the [Louisiana](#) legislature has voted to override the veto of Governor John Bel Edwards (D) and enact the Stop Harming Our Kids Act (HB 648) which protects children from so-called gender transitioning. The veto override passed the House of Representatives 76–23 and the Senate 28–11. The bill forbids placing children on puberty blockers or administering cross-sex hormone injections for the purpose of gender “reassignment.” It also forbids the “removal of any healthy or non-diseased body part or tissue” as well as the construction of artificial breasts or genitalia. Six House Democrats and two Senate Democrats voted in favor of the override, and two Democratic state legislators left their party in part due to the governor’s veto.
- [Kansas](#) District Judge Teresa Watson has ruled that the state can no longer issue driver’s licenses reflecting “gender identity” instead of birth sex. The judge maintained

that changing sex on a driver's licenses affects public safety issue and could cause "immediate and irreparable injury" as licenses are used by law enforcement to identify criminal suspects, crime victims, wanted persons, missing persons, and others.

- After the state Supreme Court deadlocked on a similar previous law, a special session of the [Iowa](#) legislature passed (House 56–34, Senate 32–17), and Governor Kim Reynolds signed, a new heartbeat law banning elective abortions after six weeks. In a written statement, Reynolds maintained: "As a pro-life governor, I am ... committed to continuing policies to support women in planning for motherhood, promote the importance of fatherhood, and encourage strong families. Our state and country will be stronger because of it." However, within hours of the signing, Planned Parenthood of the Heartland, the Emma Goldman Clinic, and the ACLU of Iowa sued to prevent the law from taking effect. Polk County District Judge Joseph Seidlin issued a [temporary injunction](#) against its enforcement, however he allowed the state board of medicine to begin drafting guidelines on how the law will be applied if his injunction is dissolved by a higher court. Abortion remains legal in Iowa up to twenty-two weeks.
- [Maine](#) Governor Janet Mills (D) has signed a new [law](#) legalizing abortion up to birth. State law formerly held, "After viability an abortion may be performed only when it is necessary to preserve the life or health of the mother in the professional judgment of a physician." The new law states, "After viability, an abortion may be performed only when it is necessary in the professional judgment of a physician." The word "necessary" is not defined. During her 2022 gubernatorial campaign, Mills stated, "I have no plans to change the current law (on abortion)."
- Just one day after banning it (and facing backlash), the Alaska Department of Corrections is once again [allowing](#) wine to be used in Catholic masses within state prisons.

## National

- The US Food and Drug Administration (FDA) has [approved](#) Opill, a progestin-only contraceptive, as the first birth control pill to be available in the United States without a prescription. Opill, also known as the mini-pill, is manufactured by Perrigo whose . global vice president for women's health, stated, "Today's approval is a groundbreaking expansion for women's health in the U.S., and a significant milestone towards addressing a key unmet need for contraceptive access."
- The Biden administration's embrace of gender ideology has led to the creation of numerous "[perks](#)" for military service members who self-identify as transgender. For example, US taxpayers now not only pay for cross-sex hormones and both "top" (breast/chest) and "bottom" (genital) surgeries, but they are also funding speech and voice therapy, facial and body contouring, and laser hair removal. In addition, service members identifying as transgender can receive waivers from physical fitness and grooming standards, and they are considered "undeployable" for up to three-hundred days while taking "transitioning" hormones (which many will take for life).

## Religious Liberty

- The United Nations Human Rights Council has [approved](#) a resolution that calls on member states to more aggressively prosecute acts of religious-based antagonism. The resolution states that member nations should "examine their national laws, policies,

and law enforcement frameworks” to identify and rectify “gaps that may impede the prevention and prosecution of acts and advocacy of religious hatred.” It was supported by the Organization of Islamic Cooperation and passed by a vote of 28–12 vote. The US rejected the measure.

### **International**

- The [Union Cycliste Internationale](#) (International Cycling Union or UCI) has formally banned men who self-identify as women from competing in women’s cycling events. In a statement, the organization clarified: “From now on, female transgender athletes who have transitioned after (male) puberty will be prohibited from participating in women’s events on the UCI International Calendar—in all categories—in the various disciplines.” UCI President explained the action stating that the organization “has a duty to guarantee, above all, equal opportunities for all competitors in cycling competitions. It is this imperative that led the UCI to conclude that, given the current state of scientific knowledge does not guarantee such equality of opportunity between transgender female athletes and cisgender female participants, it was not possible, as a precautionary measure, to authorise [sic] the former to race in the female categories.”
- Maya Forstater, a former tax expert with the Centre for Global Development in the [United Kingdom](#) who lost her employment contract for expressing that biological sex is immutable, has been awarded a £100,000 (\$108,000) payout from an employment tribunal. The tribunal stated that the sum compensates for lost wages (including interest) as well as “injury to feelings and aggravated damages” that resulted from her dismissal. Forstater stated that the ruling “sends a message to employers that this is discrimination like any other discrimination.”

### **Catholic Resources**

- The NCBC and USCCB has issued a [joint statement](#) asking the Uniform Law Commission to not make any changes to the Uniform Determination of Death Act (UDDA). The NCBC and USCCB are concerned that proposed UDDA revisions would replace the standard of whole brain death with one of partial brain death thus allowing patients who exhibit partial brain function to be declared “legally dead.” This would run counter to Catholic anthropology and would have profound implications for organ donation. The NCBC has recorded the podcast on this issue titled [Redefining Death by Revising the UDDA](#).
- The [University of San Diego](#), a purported Catholic institute of higher education, reportedly covers direct abortion and so-called gender affirming care in its student health plan.

### **Latest “Bioethics on Air” Podcast**

- Episode 118: [‘State of the Union’ on Biomedical Research](#). Fr. Tad Pacholczyk joins Joe Zalot to update listeners on the state of—and ethical implications of—contemporary issues in biomedical research. Topics include stem cell research, 3-parent embryos, and synthetic embryos.

## Of Note

- “I want to be the first trans woman to have a successful uterus transplant — ovaries and eggs included — and I want to be the first trans woman to have an abortion.”—A [male](#) so-called ‘trans activist’ on Twitter
- Paying for abortion is a “foundational, sacred obligation of military leaders.”— Pentagon Spokesman [John Kirby](#) responding to a reporter’s question, “Why is the new DOD [Department of Defense] policy on abortion critical to military readiness?”
- “What if you’re going through the wrong puberty? What if you inside feel that you are female, but now you’re going through a male puberty?”—Assistant Secretary for Health [Rachel Levine](#), a man who identifies as a woman, when asked how he would respond to those who argue that so-called transitioning should not be allowed for minors.

**Sharing the News:** If you have public policy news that you would like to share with the NCBC, or if you have colleagues who would like to receive the Bioethics Public Policy Report, please contact Joe Zalot at 215-871-2014 or [jzalot@ncbcenter.org](mailto:jzalot@ncbcenter.org). Previous editions of this report are available through the [Public Policy](#) page of the NCBC website.

**Sharing the Resources:** If you enjoy receiving the Bioethics Public Policy Report and would like to support its continued publication, please consider making a [donation](#) to the NCBC.

The National Catholic Bioethics Center webpage, available at <http://www.ncbcenter.org/>, is a significant resource for bioethics information. NCBC bioethicists are also on-call for consultation twenty-four hours a day, seven days per week, at 215-877-2660.