VALUES ACTION TEAM

2019 ANNUAL REPORT

LETTER FROM THE CHAIR

DEAR VAT COLLEAGUE,

I am pleased to share VAT's 2019 Annual Report with you. Teamwork is the signature of our success and I, along with VAT co-chairs **Reps. Robert Aderholt (AL-04), Jody Hice (GA-10),** and **Doug Lamborn (CO-05),** am thankful for your partnership in the 116th Congress.

Last year marked the first time many of us served in the minority. We often found ourselves and our priorities outnumbered in committee and on the House floor. The odds, however, did not deter us from advancing faith, family, and freedom policy, the core of VAT's mission.

This year's report documents numerous legislative actions, administrative achievements, and legal victories.

VAT BY THE NUMBERS

110 Members
30 Staff Meetings
30 Reports at RSC
18 Coalition Meetings
4 Member Events
1 StaffDel

It is my hope that the next few pages are informative and encouraging as you recall 2019's milestones.

Even as I reflect on last year, I am anticipating the challenges which 2020 holds and am grateful to be advocating for the unborn, for our children, and for our faith together as the Values Action Team.

Sincerely,

Vicky

FAITH

ELIMINATING THE CHURCH PARKING LOT TAX

The Further Consolidated Appropriations Act, PL 116-94, repealed a provision known as the church parking lot tax. Incorporated into the Tax Cuts and Jobs Act, PL 115-97, Section 512 (a)(7) required nonprofit institutions, including churches and houses of worship, to file federal income tax returns and pay taxes on transportation fringe benefits. **Rep. Mark Walker (NC-06)** introduced H.R. 1545 to remove the church parking lot tax.

Had Congress not repealed this provision, tax-exempt churches and charities would be taxed on clergy and nonprofit employee parking spaces.

During appropriations negotiations, **Rep. Kevin Brady (TX-08)** and the Ways and Means Committee were instrumental in eliminating this tax in the year-end FY20 package.

ADOPTION

GOVERNMENT DISCRIMINATION AGAINST FAITH-BASED ADOPTION PROVIDERS

On November 1, 2019, the U.S. Department of Health and Human Services (HHS) issued a notice of proposed rulemaking and a Notice of Nonenforcement. The combined announcement nullified a 2016 Obama regulation curtailing a child placing agency's ability to consider religious beliefs when uniting foster children with foster or adoptive families. **Rep. William Timmons (SC-04)** led a Member letter supporting the proposed rule, focusing on the impact the rule has on faith-based adoption agencies.

The 2016 Obama regulation excluded faith-based groups from providing foster care and adoption services. Faith-based agencies risked loss of funding and possibly licensure for seeking forever homes where faith was a key element.

South Carolina was directly impacted by the Obama regulation, forcing the state to seek a federal waiver so that religiously affiliated foster care programs, like Miracle Hill Ministries, could continue to provide foster care and adoption services for children in need of homes. In January 2019, the Trump Administration granted South Carolina's waiver request. **Rep. Ralph Norman (SC-05)** led Members in thanking Secretary Azar for this decision.

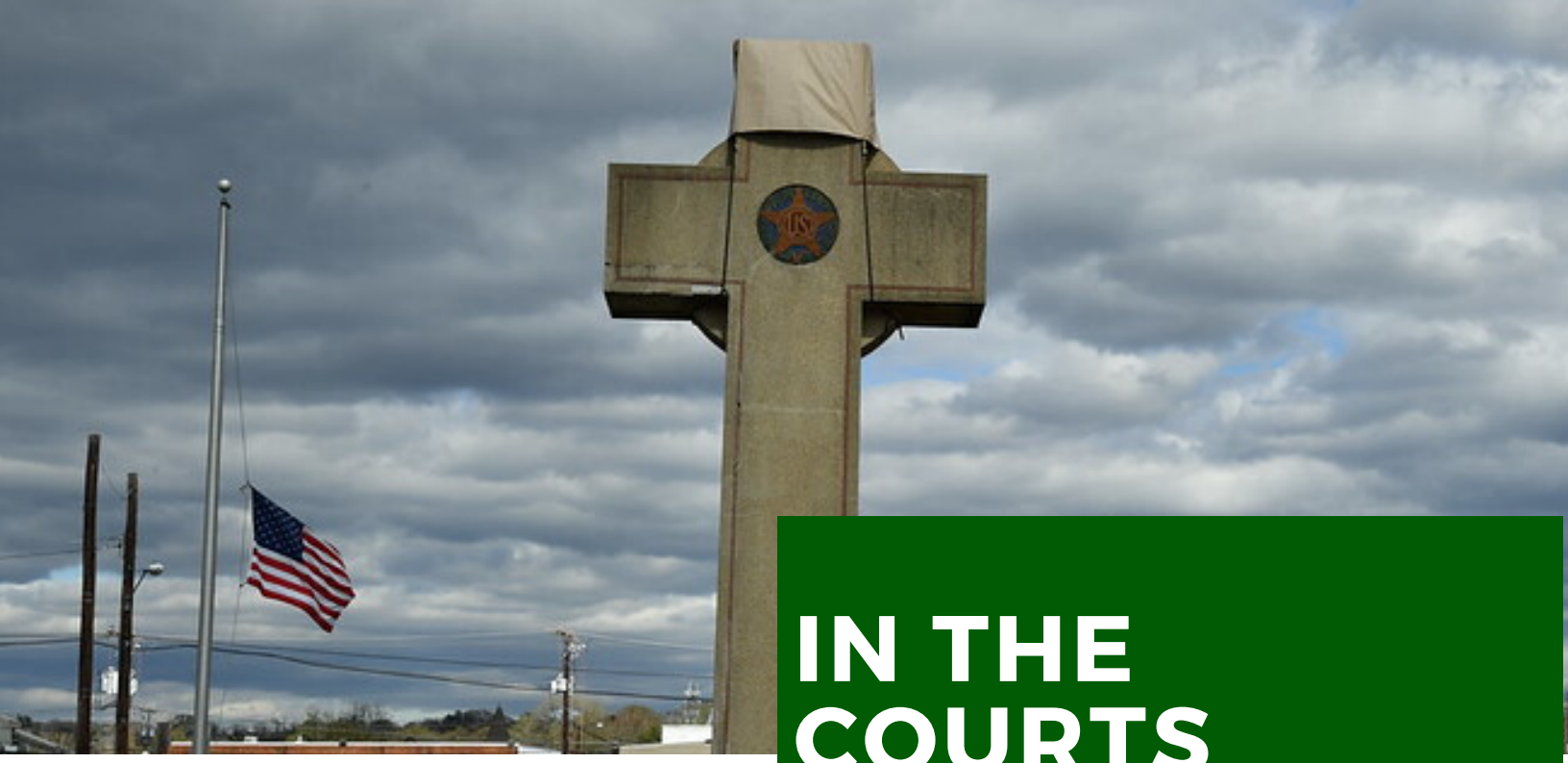


Photo by Scott Henderson, Maryland GovPics

IN THE COURTS

On April 19, 2019, the DC Circuit Court of Appeals upheld Congress' right to require that opening legislative prayers be religious in nature.

In Barker v. Conroy, House Chaplain, Father Patrick Conroy, did not grant Daniel Barker, Freedom from Religion Foundation (FFRF), permission to serve as a guest chaplain. Neither religious nor intending to offer a prayer to a higher power, Mr. Barker sued Congress.

The court ruled in favor of the House of Representatives, allowing Congress to limit opening prayers to religious prayers.

Dozens of Members had signed a 2018 **Rep. Vicky Hartzler (MO-04)** led amicus brief supporting Congress' historic practice of opening legislative sessions with prayer.

On June 20, 2019, SCOTUS handed down a 7-2 decision preserving a historical WWI cross memorial.

The cross memorial honored 49 local fallen American soldiers who died overseas during the Great War.

The American Humanist Association filed suit seeking to abolish a century-old Bladensburg, Maryland cross-shaped memorial designed by Gold Star Mothers and established by the American Legion. **Rep. Steve Scalise (LA-01)** led two Member amicus briefs in support of the cross memorial.

IN THE COURTS

LITTLE SISTERS OF THE POOR

On November 1, 2019, **Rep. Vicky Hartzler (MO-04)** and **Senator James Lankford (R-OK)** led a Member amicus brief asking the U.S. Supreme Court to grant cert for the Little Sisters of the Poor, a religious order of Catholic nuns dedicated to serving the elderly poor.

Despite a decisive 2016 High Court ruling providing relief for the Little Sisters, and a subsequent 2017 HHS rule providing religious nonprofits broad exemptions from the Obamacare HHS contraceptive mandate, the sisters were again embroiled in a lawsuit.

In the suit, Pennsylvania and California asserted that faithful Catholic nuns must be forced to provide contraceptive coverage in their health plans despite the Little Sisters' deep faith and respect for human life. The Hartzler-Lankford brief asked the Court to hear the case and reiterate the Religious Freedom Restoration Act's (RFRA) role in legislation and regulations. SCOTUS agreed to hear the case—oral arguments are scheduled for Spring 2020.

Photos courtesy of Becket Fund for Religious Liberty

ADMINISTRATIVE ACTIONS

CONTRACTORS' RIGHTS

In August 2019, the U.S. Department of Labor (DOL) issued a proposed rule clarifying that faith-based government contractors are afforded the same civil rights protections as all other government contractors.

The previous administration expanded President Johnson's federal contracting Executive Order 11246 leaving the scope of the long-standing religious exemptions ambiguous.

DOL's proposed rule provides clarity for religiously affiliated contractors consistent with the intent of Executive Order 11246, federal religious freedom statutes (Religious Freedom Restoration Act and Religious Land Use and Institutionalized Persons Act), and recent U.S. Supreme Court decisions.

Rep. Doug Lamborn (CO-05) submitted a Member letter in support of the Department's actions.

FAMILY & LIFE

On Sept. 10, dozens of members attended a minority hearing on Born Alive hosted by **Reps. Scalise, Wagner** and **Chris Smith.**

BORN ALIVE PROTECTIONS

VAT Members joined efforts to call attention to the tragedy of babies left to die after surviving abortion. In April, **Reps. Ann Wagner (MO-02)** and **Steve Scalise (LA-01)** led a petition to discharge H.R. 962, the Born-Alive Abortion Survivors Protection Act, a compassionate measure requiring that medical professionals provide appropriate and immediate medical attention to a child who survives an abortion. The discharge petition has 204 of the 218 signatures needed to bypass committee and receive immediate floor consideration.

POTUS SENDS VETO LETTER TO CONGRESS

On January 18, 2019, President Trump sent a letter to House Democrat Leadership promising to veto any legislation that weakens federal pro-life protections. **Rep. Chris Smith (NJ-04)** led 169 Members in requesting this commitment from the President. **Sen. Steve Daines (R-MT)** sent a similar letter to the President with 49 Senate signatures. Former Presidents George H.W. Bush and George W. Bush also issued similar veto letters during their terms in office.

Graphics courtesy of Susan B. Anthony List

CHEMICAL ABORTION

THE NEW FRONTIER OF THE ABORTION INDUSTRY

Chemical abortions, which end the lives of unborn children, are on the rise. This drug-induced abortion is accomplished by ingesting two pills: first, mifepristone (Mifeprex), which kills the unborn child, and second, misoprostol, which induces labor.

The Risk Evaluation Mitigation Strategy or REMS is the U.S. Food and Drug Administration (FDA) protocol to ensure that Mifeprex or any generic abortion drug must be prescribed by a certified health care provider and dispensed in a supervised health care setting.

Chemical abortions increased by more than 380% between 2001-2017.

The REMS also requires that a woman is informed of the serious health risks associated with taking these medications. Despite REMS, companies continue to illegally ship abortion drugs to customers in the United States.

Rep. Michael Burgess (TX-26) led Members in thanking FDA for sending warning letters to two online abortion pill web entities engaged in illegal activities. **Rep. Jim Banks (IN-03)** also sent correspondence, urging the FDA to strengthen REMS, and **Rep. Robert Latta (OH-05)** introduced H.R.4399, the SAVE Moms and Babies Act, which would prevent chemical abortion pills from being dispensed remotely, via mail or telemedicine, and prevent new pills from reaching the market.

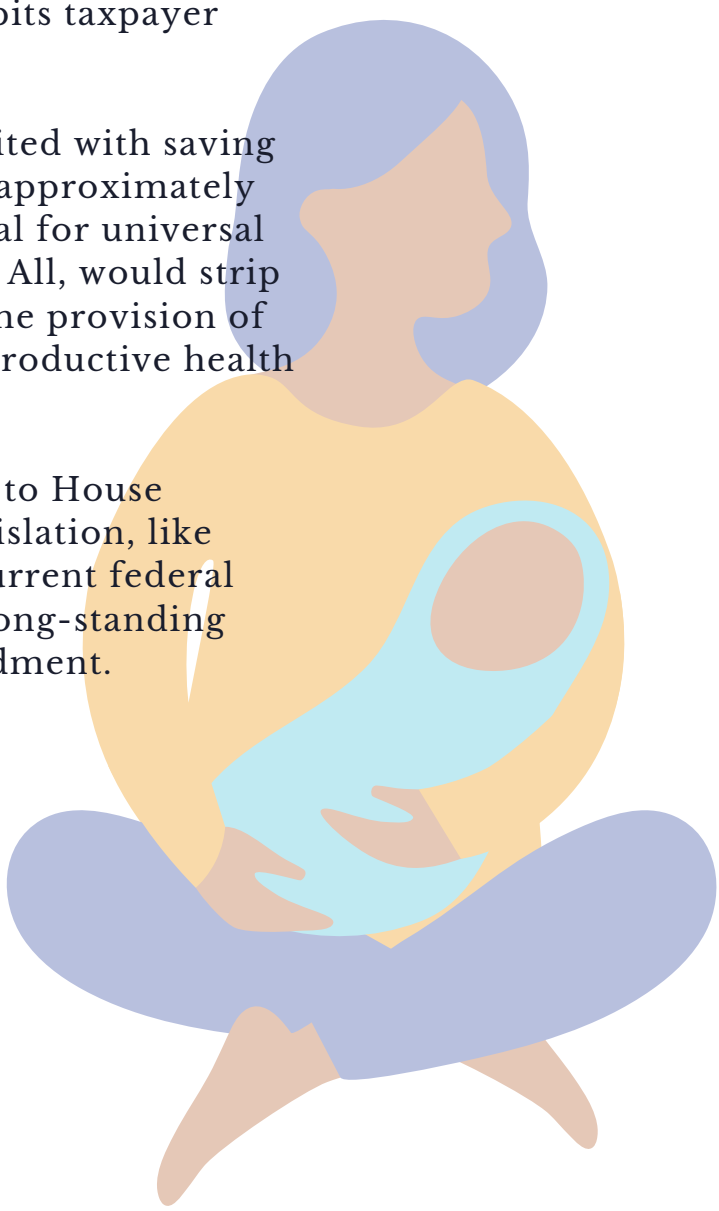
THE HYDE AMENDMENT

THE HYDE AMENDMENT & MEDICARE FOR ALL

The Hyde Amendment has been accepted policy for over 40 years. First enacted in 1976, this annual Labor, Health and Human Services Appropriations rider prohibits taxpayer dollars from paying for elective abortion.

The long-standing pro-life provision is credited with saving over 2 million babies over the last 40 years, approximately 60,000 babies annually. The current proposal for universal health coverage, also known as Medicare for All, would strip away these federal protections and require the provision of and payment for abortions as part of the reproductive health mandate.

Rep. Jim Banks (IN-03) led a Member letter to House Leadership expressing opposition to any legislation, like Medicare for All, which would undermine current federal protections for the unborn, stripping away long-standing pro-life protections such as the Hyde Amendment.



PROTECTING LIFE IN FEDERAL FUNDING

GAO REPORT ON PLANNED PARENTHOOD FUNDING

Reps. Vicky Hartzler (MO-04), Pete Olson (TX-22), and **Sen. Marsha Blackburn (R-TN)** led Members in asking the Government Accountability Office (GAO) for an updated report on federal funding for domestic and international abortion providers. A 2018 GAO report covering FY13-FY15 found that three major abortion providers received $1.6 billion in government funding over the reporting period. The updated GAO report covering FY16-FY18 is expected in 2020.

GAO found that Planned Parenthood Federation of America was the largest recipient of federal dollars, receiving approximately $500 million annually.

TITLE X

For the first time in nearly 20 years, HHS updated the Title X regulations. Established in 1970, the Title X program is the only federal program dedicated to family planning services for low-income families. The final Title X rule, which went into effect on July 15, 2019, requires physical and financial separation between Title X clinics and abortion providers; provides protection for victims of sexual assault, incest, and rape; and removes the requirement that Title X clinics refer for abortions. Planned Parenthood, the largest abortion provider in the U.S., has received approximately $60 million annually through the Title X program. Members have actively pursued and supported the updated Title X regulations. In 2018, **Reps. Ron Estes (KS-04), Vicky Hartzler (MO-04), Diane Black (TN-06)** and **Chris Smith (NJ-04)** led Members in requesting modified Title X regulations and supporting HHS' proposed rule. In 2019, **Rep. Estes** circulated a Member letter thanking Secretary Azar for issuing the updated regulations.

IN THE COURTS

LOUISIANA'S PRO-LIFE LAW

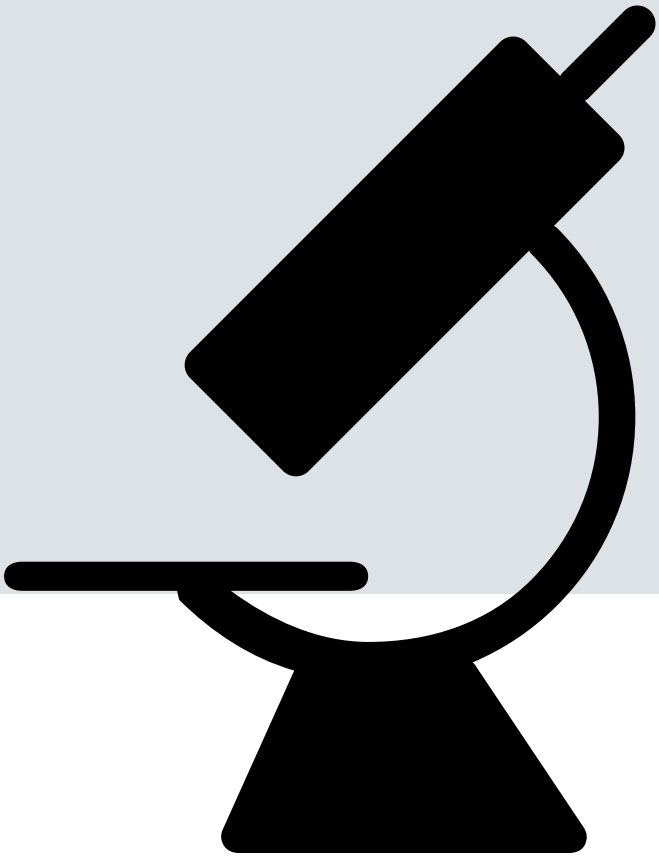
Reps. Steve Scalise (LA-01) and **Mike Johnson (LA-04)** led 207 Members in submitting an amicus brief supporting Louisiana's pro-life law requiring that abortionists have admitting privileges at local hospitals.

The Member amicus brief argues that abortion providers lack standing to plead the claims of their patients and that, in fact, Louisiana's abortion facilities have a long history of health and safety violations.

The brief agrees with the analysis that Louisiana's law applied uniform standards to all physicians who provide similar services. Abortionists, like other physicians at ambulatory surgical centers, must have the ability to admit patients at a local hospital.

The amicus brief also suggests that the High Court review the unworkable standards set forth under *Roe v. Wade* and *Planned Parenthood of Southern Pennsylvania v. Casey*. Oral arguments in *June Medical Services, LLC v. Gee* and *Gee v. June Medical Services, LLC* are expected March 2020.

FETAL TISSUE RESEARCH



A June 2019 HHS announcement ended a major fetal tissue research contract with the University of California, San Francisco (UCSF); halted the National Institutes of Health (NIH) intramural research requiring new acquisitions of fetal tissue from elective abortions; and required that extramural research projects—federally funded non-NIH projects—receive ethics advisory board approval before commencing.

This announcement came in direct response to a November 2018 Member letter **Reps. Chris Smith (NJ-04)** and **Vicky Hartzler (MO-04)** led asking HHS to cancel the contract with UCSF and to issue an agency-wide moratorium on funding research which uses baby body parts following an abortion.

HHS provided guidelines for extramural fetal tissue research in July 2019. These guidelines impact grants and agreements beginning on or after September 25, 2019. **Rep. Blaine Luetkemeyer (MO-03)** led a Member letter thanking HHS for the updated policy governing fetal tissue research and asking for additional information on mid-cycle extramural research.

Although HHS halted intramural research and requires that new extramural research applications are reviewed by an ethics advisory board, mid-cycle extramural applications will continue without interruption. **Rep. Luetkemeyer's** letter notes that the NIH will spend $120 million on 200 mid-cycle fetal tissue projects.

APPROPRIATIONS

On December 20, 2019, the President signed two appropriations packages into law, the FY2020 Consolidated Appropriations Act (PL 116-93) and FY2020 Further Consolidated Appropriations Act (PL 116-94). Together, these bills preserved all long-standing pro-life protections such as the Hyde, Weldon, and Kemp-Kasten amendments and the Helms international abortion funding ban.

The final packages removed a Senate provision, the Shaheen amendment, which increased international family planning funding, bolstering NGOs which promote abortion overseas; dropped House adopted language legalizing marijuana for recreational purposes; rejected House adopted SOGI provisions; and eliminated the church parking lot tax. The FY2020 Further Consolidated Appropriations Act included **Rep. Robert Aderholt's (AL-04)** amendment prohibiting the FDA from approving the heritable genetic modification of human embryos.

Earlier in December, **Reps. Chris Smith (NJ-04)** and **Vicky Hartzler (MO-04)** led a Member letter to **Leader Kevin McCarthy (CA-23)** and **Appropriations Ranking Member Kay Granger (TX-12)** thanking them for their commitment to ensuring that the FY20 appropriations legislation complies with the July Budget Agreement and requesting that the final package not undermine pro-life, religious liberty, or family values priorities.

FREEDOM

SOGI provisions elevate a sexual preference to a civil right, pitting enshrined historical and constitutional rights like speech and religious liberties against a new sexual orthodoxy.

USMCA

The United States-Mexico-Canada Agreement (USMCA) includes two references, Article 23.9 and Article 23.12, to sexual orientation and gender identity (SOGI). Concerned with these USMCA articles, **Rep. Doug Lamborn (CO-05)** led a Member letter urging President Trump to remove the references.

The United States Trade Representative (USTR), responded, however, that removing the references was not possible as none of the parties—United States, Mexico, and Canada—were willing to reopen the negotiations and miss the November 30, 2018, deadline for signing the agreement.

Alliance Defending Freedom (ADF) and VAT worked closely with USTR to mitigate the impact of the language. The final agreement modified one of the articles, Article 23.9, limiting the definition of 'sex' and making the provision self-executing. USTR maintained that Article 23.9 does not interfere with Administrative Executive Orders. USTR did not modify Article 23.12. The House passed H.R. 5430, the United States-Mexico-Canada Agreement Implementation Act, on December 19.

COLLISION COURSE: SOGI LEGISLATION

THE EQUALITY ACT

The U.S. House of Representatives considered and passed H.R. 5, The Equality Act, on May 17, 2019. The Equality Act expands the definition of 'sex' to include sexual orientation and gender identity, imposing new regulations in places of:

- Public accommodation;
- Public facilities;
- Public education;
- Federal funding;
- Employment;
- Housing;
- Credit opportunities; and
- Jury selection.

Virtually every parent or legal guardian and every public, private, religiously affiliated, or secular business, health care provider or professional, shelter, elementary or secondary school, university or college, and charity or nonprofit, will be legally bound to abide by a federally backed orthodoxy of human sexuality and gender fluidity.

The bill provides no exemptions for people of faith or religious institutions. In fact, H.R. 5 waives any claims under the Religious Freedom Restoration Act, civil rights law prohibiting the government from substantially burdening the free exercise of religion unless the government has a compelling interest and uses the least restrictive means possible to further that interest.

SOGI LEGISLATION

UNEQUAL PROVISIONS

The Equality Act provides for a universal right to abortion, compromises taxpayer safeguards against funding abortion, and eliminates conscience protections for health care providers who choose not to participate in abortion.

Under this bill:

- Women can no longer expect or request female only hospital rooms, communal showers, juvenile detention facilities, or rape crisis centers;
- Female athletes will be required to compete against transitioning male athletes;
- Local schools will face pressure to teach a gender fluid curriculum;
- Parental rights will be challenged; and
- There will be a government mandate for doctors, nurses, medical facilities, and health care plans to perform and pay for controversial gender and transition-affirming therapies and sex-reassignment surgeries.

The Equality Act imposes a top-down government-led discrimination against all Americans who hold a differing view of human sexuality and gender. This grossly misnamed bill punishes everyday citizens, silences free speech, and discriminates against people of faith.

VAT distributed information on the harmful implications of this bill and VAT Members spoke on the floor in opposition to the measure.

SOGI LEGISLATION

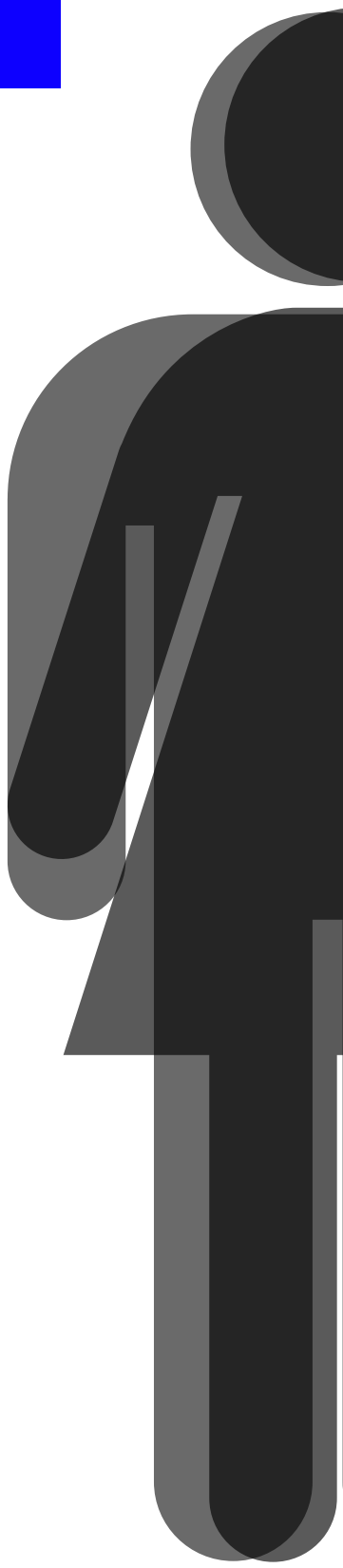
FAIRNESS FOR ALL

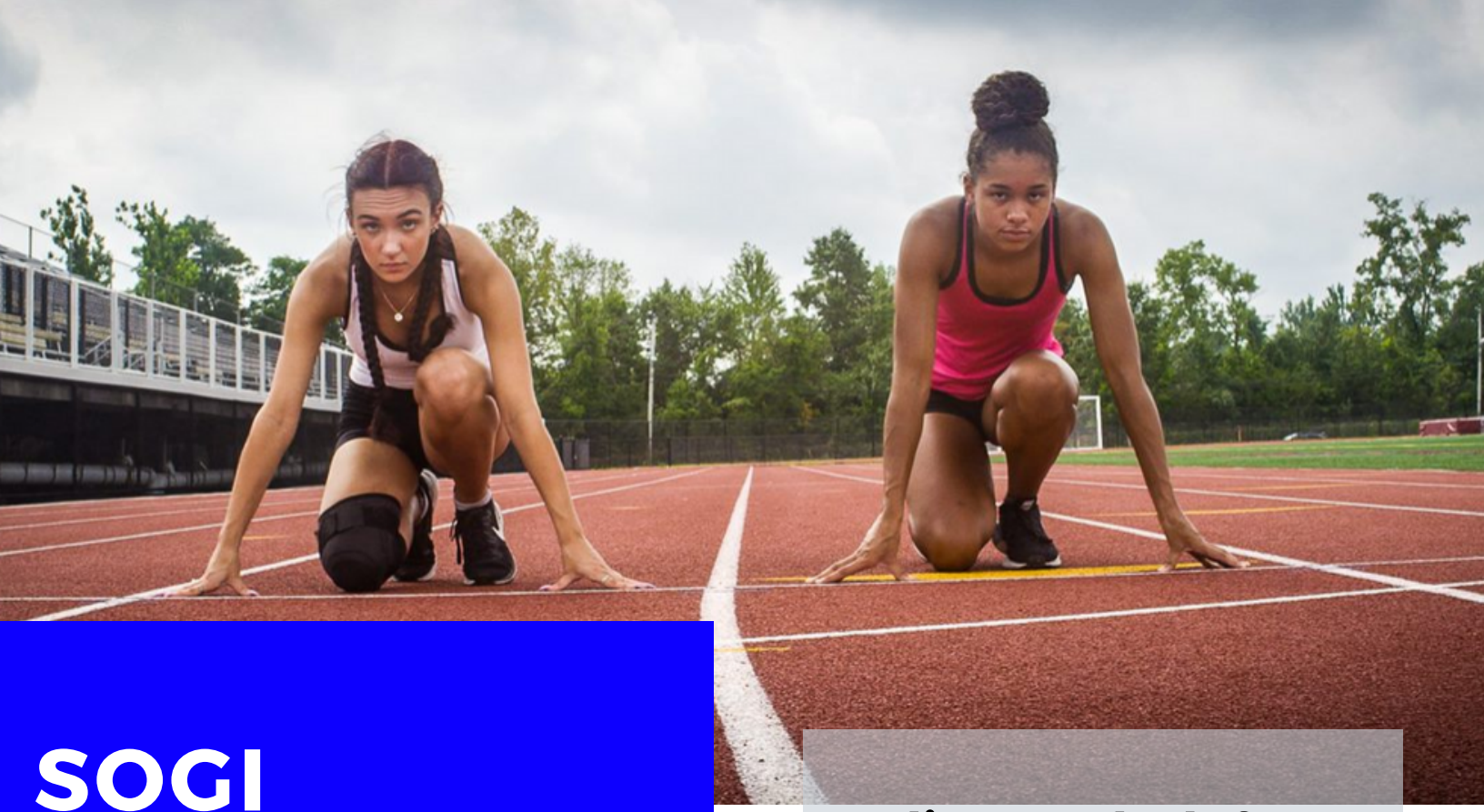
VAT Coalition Partners are scoring against co-sponsorship of a similar measure, H.R. 5331, Fairness for All. Fairness for All follows the Equality Act model while including limited protections for religiously affiliated groups. Like H.R. 5, Fairness for All adds sexual orientation and gender identity as protected classes in federal civil rights law. It simultaneously proposes limited protections for churches, religious charities, and people of faith.

The measure establishes a construct which assumes pastors, people of faith, and religious non-profits hold a wrong belief and prejudice of sexuality. The bill sanctions a narrow view of marriage and family, a perspective that often runs counter to religious and moral convictions.

Fairness for All, however, provides no protections for Americans who support the traditional family unit, human privacy, or who believe they have a moral obligation to support their community but who do not profess a faith. Homeless shelters, private business and schools which receive federal funding may no longer be able to secure sex-specific private spaces for victims of domestic violence, employees or students.

Gender-specific locker rooms and intimate facilities will be required to be open to any and all individuals who are, or who identify with, a given gender. The bill constrains faith-based adoption agencies, eliminating direct federal funding for faith-based institutions that may choose only to place children in two-parent, mother and father homes.





SOGI LEGISLATION

THE CONSEQUENCES

The 1964 landmark civil rights law guarantees equal protection for permanent characteristics: race, color, sex, and national origin, as well as the constitutionally protected religious beliefs.

In contrast, the Equality Act and Fairness for All incorporate shifting, unstable, and preferential characteristics—sexual orientation and gender identity—into civil rights law.

SOGI provisions subvert the rights of Americans who disagree with a certain lifestyle, relationship, philosophy, and/or ideology,

Selina Soule, left, and Alanna Smith have lost to biological males who compete in women's sporting events.

undermining and weakening current civil rights protections. Measures like H.R. 5 and H.R. 5331 undermine the common good of all Americans, jeopardizing adoption agencies, small businesses, medical professionals, and homeless shelters, and place the safety and privacy of women and girls at risk. VAT will continue to oppose these bills.

DOD TRANSGENDER POLICY

The 2018 Mattis Policy was crafted to ensure that all service members are subject to the same medical and sex-based standards.

In March 2019, the Department of Defense issued Directive-type Memorandum DTM)-19-004- Military Service by Transgender Persons and Persons with Gender Dysphoria. This DTM implemented President Trump's 2018 transgender service policy, known as the Mattis Policy, beginning April 12, 2019.

The nuanced Mattis Policy distinguishes currently serving service members from new applicants. It also distinguishes between transgender individuals who do not have a diagnosis or history of gender dysphoria; individuals who do have a diagnosis or history of gender dysphoria; and individuals who have a history of medical transition treatment, which could include cross-sex hormone therapy and/or sex reassignment.

The Mattis Policy grandfathers in all currently serving transgender service members. Until President Obama changed the policy in 2016, the military standards were clear on the accession and retention of transgender persons: persons with a history of 'transsexualism' were disqualified, as were persons who had abnormalities, defects, or genital surgery. Individuals were, however, able to apply for waivers. In 2016, then Sec. Carter established new standards prohibiting separation from military service based on gender preferred characteristics, granting exemptions from medical standards, and providing federal funds for and military support of service members transitioning from one gender to another.

ADMINISTRATIVE ACTIONS

CONSCIENCE REGULATIONS

The U.S. Department of Health and Human Services issued a final rule, *Protecting Statutory Conscience Rights in Health Care; Delegations of Authority*, providing health care providers and professionals with robust conscience protections. The May 2019 final rule implements 25 federal conscience statutes, replacing the 2011 HHS rule which only governed three statutes. Under the final rule, neither the government nor government funded entities can force doctors, nurses, health professionals, or health care employees to participate in abortion, sterilization, or assisted suicide in violation of the individual's religious or moral conviction.

The final rule protects those in the health industry from government discrimination for exercising religious beliefs. Like other civil rights enforcements, HHS will be able to review complaints of government discrimination, investigate, and require compliance with these regulations. This conscience regulation includes federal statutes such as the Church Amendments, the Coats-Snowe Amendment, the Weldon Amendment, and Obamacare conscience protections.

Planned Parenthood along with more than a dozen states, sued HHS and delayed implementation of the final rule. On December 31, **Rep. Chris Smith (NJ-04)** sent a Member letter to U.S. Attorney General Barr and HHS Sec. Azar encouraging the Department of Justice (DOJ) to appeal recent decisions which vacated the rule. The letter also requested updated data on conscience complaints HHS has received.

OBAMACARE RE-WRITES CIVIL RIGHTS LAW

October 15, 2019, a Texas federal court struck down a 2016 Obama regulation interpreting Section 1557 of the Affordable Care Act. The Northern District of Texas ruling found that the 2016 Obama rule violated the Administrative Procedure Act (APA) and the Religious Freedom Restoration Act (RFRA). This victory provides relief for medical professionals who may otherwise have been forced to perform gender transition surgeries or abortions.

When the Obama Administration wrote the implementing regulation for Section 1557 in 2016, it interpreted 'sex' to include abortion (termination of pregnancy) as well as gender identity (one's internal sense of being male, female, neither, or a combination of male and female). The Obama 2016 rule created a novel definition of 'sex' which is inconsistent with federal civil rights statute.

Under the Trump Administration, HHS is finalizing updated regulations for Section 1557. **Rep. Mike Johnson (LA-04)** submitted a Member comment letter supporting HHS' 2019 proposed rule which would prohibit discrimination on the basis of race, color, national origin, sex, age, or disability in federally funded and HHS operated health care programs. HHS' proposed rule clarifies that Section 1557 will not be used to force health care professionals or organizations to provide or pay for services such as abortion or gender reassignment surgeries.

IN THE COURTS

TITLE VII

Rep. Vicky Hartzler (MO-04) and **Sen. James Lankford (R-OK)** led a Member amicus brief before the U.S. Supreme Court in support of the current, historical, and biological Civil Rights Act of 1964 definition of 'sex' as male and female. The amicus brief argues that any changes to the interpretation of Title VII's definition is a legislative function; that the purpose of Title VII must be weighed against the danger of creating new forms of discrimination; and that legislative debates subsequent to the passage of Title VII show that the original meaning of the terms did not include sexual orientation and gender identity. SCOTUS heard oral arguments in two cases, *R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC* and the consolidated case of *Bostock v. Clayton County, Georgia* and *Altitude Express v. Zarda* on October 8.

ARLENE'S FLOWERS V. WA STATE

Reps. Jody Hice (GA-10) and **Vicky Hartzler (MO-04)** led a Member amicus brief asking the U.S. Supreme Court to grant cert on behalf of Barronelle Stutzman in *Arlene's Flowers, Inc. v. State of Washington.* Barronelle, a small floral business owner in Richland, Washington, was personally and professionally sued by the State of Washington for declining to participate in her friend and client's same-sex ceremony. SCOTUS ordered the Washington Supreme Court to rehear Barronelle's case after the 7-2 SCOTUS decision in *Masterpiece Cakeshop*. In June 2019, the state ruled against Barronelle a second time. The amicus brief asks SCOTUS to hear Barronelle's case, arguing that artistic works are protected by the First Amendment; that floral art is protected expression under the First Amendment; and that the First Amendment prohibits compelling expressive conduct.

Photos courtesy of Alliance Defending Freedom