



# Fetal Dignity Laws

## Respecting the Human Dignity of the Unborn

*by Mary Szoch, M.Ed. and Katherine Beck Johnson, J.D.*

### Key Points

Fetal dignity laws affirm the human dignity of the unborn and protect women's health and safety via stricter regulation of the abortion industry.

The uncovering of an industry trafficking aborted baby body parts and the abuses committed by the University of Pittsburgh, Kermit Gosnell, and Ulrich Klopfer show the need for fetal dignity laws.

States should respect the dignity of unborn children through fetal remains laws, fetal tissue research bans, bans on the sale of baby body parts, and providing death certificates for stillborn and miscarried babies.

### Summary

Due to the lack of legal protection for the remains of unborn babies, these remains are often treated in an undignified manner. In recent years, American consciences have been shocked by the discovery of baby remains in jars, human hair growing on laboratory rodents, and taped conversations about buying and selling baby body parts for research.

These developments reveal a pressing need to pass fetal dignity laws, which affirm the human dignity of the unborn and prevent harmful practices such as carrying out late-term abortions, altering abortion methods for the sake of preserving the remains for sale, violating patient privacy, and even likely killing some children born alive in order to harvest their organs.

## **What Are Fetal Dignity Laws?**

Fetal dignity laws affirm the human dignity of the unborn and protect women's health and safety via stricter regulation of the abortion industry. Various state-level fetal dignity laws currently in place include protections such as:

- requiring abortion businesses to bury or cremate unborn children after an abortion,
- requiring informed consent for the mother to choose between burial or cremation for the baby,
- prohibiting the transfer of fetal remains,
- prohibiting the use of fetal remains for research (or, in some cases, prohibiting the public funding of research involving fetal remains),
- prohibiting the creation of human-animal chimeras,
- prohibiting the sale of (or, in some cases, prohibiting the profiting from) baby body parts,
- providing death certificates for miscarried babies, and
- providing an income tax credit for parents who have lost a child from miscarriage or stillbirth.

Although fetal dignity laws vary in their particulars, they all have one shared goal: protecting the dignity of the unborn.

Policies to protect fetal dignity have also been introduced at the federal level. However, none of these policies currently remain in place under the pro-abortion Biden administration and the pro-abortion-majority in Congress. Therefore, the battle to pass legislation protecting the dignity of the unborn child must continue.

## **Why Are Fetal Dignity Laws Needed?**

Fetal dignity laws are needed for many reasons. Recent discoveries of aborted baby remains being bought and sold for experimentation in laboratories, grafted onto mice, and held in jars as souvenirs have provided additional insight into the abortion industry's high disregard for the human dignity of

the lives lost through abortion. It is crucial to start affirming the humanity of the unborn in the law. Fetal dignity laws help shape a culture that honors and respects the unborn by acknowledging their humanity and affirming the dignity of each life lost through abortion. The instances below lay out specific findings that have led to the need for fetal dignity laws.

## **Fetal Experimentation at University of Pittsburgh**

On August 13, 2020, *Scientific Reports* published the University of Pittsburgh study, “Development of Humanized Mouse and Rat Models with Full-Thickness Human Skin and Autologous Immune Cells.”<sup>1</sup> This study details a 2019 experiment in which Pitt scientists co-grafted human fetal skin and scalp tissue, fetal lymphoid tissue, and fetal liver-derived hematopoietic stem cells onto immunodeficient mice and rats.

With clinical callousness, the report shows pictures of the scalps from aborted babies at 18-20 weeks gestation grafted onto mice backs. It describes the transplant and subsequent growth of the lymphoid and fetal liver tissue within the mice and rats.<sup>2</sup> Eighteen to 20 weeks is at least six weeks after the point at which unborn babies can start feeling pain.<sup>3 4</sup> As part of the report, the scientists acknowledge the limitations of the study caused by the major differences between rats, mice, and humans; however, the study proceeded anyway, with the goal of testing human immune responses to skin infection.<sup>5</sup> This study received a \$430,000 grant from the National Institute of Allergy and Infectious Diseases (NIAID) at the National Institutes of Health (NIH).

In response to the horrors of the publication, on May 4, 2020, the Pennsylvania House Health Committee held a hearing on “Fetal Experimentation.”

Dr. Jeremy Rich, who emphasized several times in his testimony that he had no connection to the fetal tissue experimentation in question and had never performed experimentation on any fetal tissue, represented the University of Pittsburgh at the hearing. In his testimony, Dr. Rich stated that the research on these humanized mice was done for the purpose of creating vaccines. Dr. Rich testified that

many scientific advancements rely on the use of fetal tissue. However, a 2016 select panel convened by the U.S. House of Representatives found that fetal tissue is neither necessary nor the most effective way to do research.<sup>6</sup> Dr. Rich argued that fetal tissue and cells are a necessary component of certain forms of experimentation and cannot be replaced by other cells. At the same time, Dr. Rich acknowledged the limitations of the study due to the major differences between rodents and humans.

Dr. Rich testified that the university received fetal tissue through its Medical Center (UPMC) and that maternal consent for aborted baby tissue donation was obtained. Dr. Rich made clear that, in accordance with state and federal regulations, mothers were not asked to consent to donating their aborted unborn child's remains until after the mother had consented to the abortion.

Aside from maintaining that Pitt did not violate any laws, Dr. Rich was unable to answer any specific questions regarding how the fetal tissue was obtained. He was unable to describe how the fetal tissue—including scalps, livers, and thymus tissue—was collected, the point during the abortion when the tissue was procured, or the process by which consent for the use of tissue was obtained. Dr. Rich's testimony did not shed any light on the experiment in question, as he clearly was not familiar with its particulars.

David Daleiden, the founder of the Center for Medical Progress (CMP), also testified at the hearing. In his testimony, Daleiden noted that in order for the scalps (which the report states later grew into mature adult tissue) to be grafted onto the mice, the abortionist would likely have had to have carried out a partial-birth abortion, which is illegal in the United States. Again, it must be stressed that the unborn babies from whom the scalps were taken were 18-22 gestation and certainly would have felt the pain of a partial-birth abortion.

Daleiden also pointed out the possibility of a quid-pro-quo discovered by the CMP between the University of Pittsburgh, Planned Parenthood, and the NIH, with Planned Parenthood providing aborted fetal tissue, the NIH providing grant funding to Pitt, and Pitt funding Planned Parenthood. Pitt's grant application to the NIH argued that the university had "unique access" to a supply of aborted fetuses. Daleiden testified that during CMP's undercover work, Planned Parenthood admitted to supplying Pitt with aborted fetal tissue, though they later denied it.

As part of his testimony, Daleiden recounted Pitt's history of fetal tissue testing. He described Dr. Gerlach's protocol, which was used as recently as 2019 and included obtaining livers from five-month-old intact babies delivered alive in late-term abortions at gestational age 18-22 weeks to be used in experimentation.<sup>7</sup>

In Pennsylvania, failure to provide immediate medical care to an infant born alive or experimenting on a living infant is against the law; however, it does not appear this law was enforced.<sup>8</sup>

The inhumane experimentation carried out by the University of Pittsburgh and the quid-pro-quo avenue through which it was accomplished—despite Pennsylvania's strict laws prohibiting the sale or exchange of aborted fetal tissue—points to the need for all-out bans on fetal research, and certainly a ban on federal government funding for fetal tissue research.

## **Center for Medical Progress Discoveries**

In 2015, the CMP released videos filmed by investigative journalist David Daleiden that uncovered a black-market industry of trafficking aborted baby body parts. Daleiden went undercover to record abortionists, executives, and staff-level employees of the abortion industry discuss fetal tissue procurement from abortions in shocking detail. These videos, together with acquired documents, exposed the buyer-seller relationship between the abortion industry and fetal tissue procurement companies.

In October of that same year, the U.S. House of Representatives established the Select Investigative Panel on Infant Lives to examine the grotesque practices uncovered by the CMP videos. The select panel uncovered widespread unethical and illegal practices involving the trafficking of baby body parts from abortion businesses to sellers via fetal tissue procurement companies acting as middlemen. For example, Advanced Bioscience Resources (ABR) was investigated and appeared as a case study in the select panel's July 2016 interim update. The panel found that ABR paid Planned Parenthood and other

abortion businesses a flat fee of \$45 to \$60 per baby specimen. In 2015 alone, ABR made nearly \$80,000 in payments to its top five abortion businesses from which it procured baby body parts. In turn, ABR sold these parts to customers. In 2015 alone, ABR's revenue from the sale of baby body parts to its top six customers equaled \$191,984. The body parts sold included at least 80 baby brains, 36 pairs of eyes, eight hearts, 16 spinal cords, two intact skullcaps, two spinal columns, two skins, and other tissue.<sup>9</sup>

CMP's investigations revealed from invoices that the process was similar to that of other biotech companies. The middlemen paid abortion businesses for collecting the baby body parts and then sold them to universities, pharmaceutical companies, research labs, and even the NIH and the Food and Drug Administration (FDA) for astronomical prices. For example, ABR charged customers \$340 to \$550 per fetal specimen procured. StemExpress sold human hearts of 18 to 24-week babies for \$595 each. DV Biologics sold half a baby liver for \$350 and a baby thymus for \$500.<sup>10</sup> The interim update also revealed a StemExpress purchase order selling limbs with hands and feet of a 17 to 18-week baby for \$890 each.<sup>11</sup> StemExpress also sold "Fetal Liver CD133+ Stem/Progenitor Cells" for \$2,425 to \$24,250.<sup>12</sup> The Department of Justice also launched and has an ongoing investigation of Planned Parenthood's practice of selling fetal tissue.<sup>13</sup>

Bills that prevent the harvesting and selling of the remains of unborn babies must be passed to help protect women from actions done solely for Planned Parenthood's interest in increased business, such as violations of patient privacy and altered abortion methods.

## **Dr. Kermit Gosnell**

When the police raided Dr. Kermit Gosnell's abortion facility in Philadelphia on February 18, 2010, they found, in addition to the horrifying conditions, the remains of 45 unborn children. Fetal remains were found in various containers, some refrigerated and others frozen, including in "bags, milk jugs, orange juice cartons, and cat food containers." Among the fetal remains were rows of jars containing severed feet of aborted children.

Fetal remains laws would make it illegal for Gosnell to house unborn children in cat food containers or keep their feet in jars. They would require the abortionist to bury the cremated remains of the unborn. The need for these fetal dignity laws is growing more pressing as stories emerge showing that Gosnell's behavior is no longer an isolated incident.

## **Dr. Ulrich Klopfer**

Dr. Ulrich Klopfer was known as one of the largest abortion suppliers in Indiana, carrying out over 30,000 abortions. After his death, his family discovered that he had been harboring unborn remains in his garage. In September 2019, the police reported that Klopfer had medically preserved 2,246 unborn children in plastic bags.<sup>14</sup> A few weeks later, in October, Klopfer's family found additional remains of more unborn children in the trunk of his old car.<sup>15</sup> Had Indiana's fetal remains law been in place when Klopfer was carrying out abortions, he would have been legally required to surrender the remains for burial or cremation within 10 business days. He also could have been charged with transporting a fetus out of Indiana (a Class A misdemeanor), as well as intentionally acquiring fetal tissue (a Level 5 felony).

Serena Dyksen, a woman who underwent an abortion by Klopfer, said, "[i]f he could have the babies all these years later, I have a right to know if she [her daughter] was one of them."<sup>16</sup> A woman should never have to wonder if her unborn child is being preserved in a jar on Klopfer or Gosnell's shelf. "I feel like I have been violated all over again," Dyksen said. "Now for the third time."<sup>17</sup>

State-level fetal dignity laws would address the concerns that have resulted from the discovery of the unethical activities of Planned Parenthood, Gosnell, Klopfer, and others. For instance, Indiana has a fetal remains law, but it was enacted subsequent to Klopfer's misdeeds and would not apply to them (Indiana and Illinois authorities are looking into Klopfer's activities more broadly). The dignity of the unborn must be respected in society and protected by the law.

Planned Parenthood's business of selling the remains of the unborn illustrates the highest disregard for the dignity of the lives lost—a disregard rivaled only by Gosnell and Klopfer, who kept the remains in jars and plastic bags. Fetal dignity laws reflect the moral understanding that the remains of unborn babies do not deserve to be sold or kept in jars. These laws provide the protection needed to further respect the unborn and recognize their humanity.

## Types of Fetal Dignity Laws

### Disposal of Fetal Remains

Under these laws, abortion businesses are required to dispose of unborn remains through cremation or burial. Fetal remains laws prevent the baby body parts from being treated as medical waste or housed in jars as trophies. These laws honor and respect the dignity of the lives lost through abortion. Fetal remains laws need to be passed so that women like Serena Dyksen do not have to fear that their child is in a jar on an abortionist's shelf.

Indiana's fetal remains law was the subject of a recent court challenge in *Box v. Planned Parenthood*.<sup>18</sup> The case went all the way up to the U.S. Supreme Court, which held that the state had a legitimate interest in the proper disposal of fetal remains and that the requirements were rationally related to that legitimate interest. The Court also articulated this same principle in *City of Akron v. Akron Center for Reproductive Health*.<sup>19</sup> Had Indiana's fetal remains law been passed earlier, it would have prevented people like Ulrich Klopfer from storing the bodies of babies in ways that violate their human dignity.

Responding to the Klopfer situation at the federal level, Sen. Mike Braun (R-Ind.) and Rep. Jackie Walorski (R-Ind.) introduced the Dignity for Aborted Children Act in 2019. This bill would require the abortionist to cremate or bury each unborn child of an abortion affecting interstate commerce within seven days of the abortion. The bill also requires the informed consent of the mother to choose burial or cremation after the abortion (a type of fetal dignity law discussed below) and a requirement that each abortion business report the abortions.<sup>20</sup>



Some states include especially strong protections for fetal tissue. For example, Alabama bans transferring, purchasing, distributing, accepting, using, or attempting to use fetal organs.<sup>21</sup> Ohio bans the research and transfer of fetal tissue.<sup>22</sup> Although numerous other states prohibit fetal tissue from being used in a demeaning way, we encourage all states to pass strong, comprehensive, and concise bans.

## **Informed Consent for Burial or Cremation**

Informed consent laws require abortion businesses to inform the mother of the choice between burial or cremation, ensuring that women know their options and agree to burial or cremation before or after the abortion. These laws encourage abortion businesses and mothers seeking abortions to think of the unborn child as a person worthy of a dignified resting place instead of mere medical waste. The informed consent requirement is often in a fetal remains law.

## **Death Certificates for Stillborn and Miscarried Babies**

Providing death certificates for children who die in the womb allows a woman to be comforted and affirmed in the loss of her baby. It also affirms the human dignity of the life that was lost. Many states have already passed bills that allow birth (as well as death) certificates for women who lost their children from stillbirths. Joanne Cacciatore—whose daughter, Cheyenne, was stillborn 13 years ago—started the movement allowing for parents to receive birth certificates for parents whose children were stillborn: “It’s dignity and validation, it’s the same reason why we want things like marriage licenses and baptismal certificates.”<sup>23</sup> Although most states require reporting a fetal death, especially if the unborn child is 20 weeks or older, more laws must be passed so that all states provide death (and birth) certificates for children who die in the womb.

## Fetal Tissue Research Bans

Fetal tissue research bans prevent research (such as research conducted at a university or in a lab) from occurring on babies who have been aborted. Transferring unborn remains to a university or lab for research is unnecessary and antiquated because research using human fetal tissue has been replaced by modern, successful alternatives that exist using organs produced in vitro from ethically sourced cells, induced pluripotent stem cells, and adult stem cells.<sup>24</sup>

### *Human Fetal Tissue Is Not Necessary for Scientific Research*

In the past, researchers have advocated to obtain and utilize human fetal tissue in order to test experimental medicine or to study disease. Although some researchers argue experimentation on fetal tissue is necessary to aid humanity, investigations into this type of research have proven it does not provide significant health benefits. Instead, it creates an industry that revolves around mistreating the remains of unborn children.<sup>25</sup>

Following the Center for Medical Progress' discoveries in 2015, the U.S. House of Representatives convened a select panel to investigate fetal tissue research.<sup>26</sup> As the panel's final report indicated, there have been no successful clinical results from human fetal tissue research:

Human fetal tissue research is an outdated and unproductive area of research that does not make a strong impact on the field. In over 100 years of unrestricted investigation, human fetal tissue research has had ample time to prove useful, yet it has failed to do so:

- Fetal tissue HAS NOT produced a single medical treatment.
- Fetal tissue WAS NOT used to cure polio, mumps, and measles.
- Fetal tissue IS NOT used for modern vaccine production or research.
- Fetal tissue IS NOT critical to study Zika or other diseases affecting brain development.

- Fetal tissue IS NOT required for the overwhelming majority of current research.
- Fetal tissue research is LESS PRODUCTIVE and has LOWER IMPACT when compared to non-fetal tissue research.<sup>27</sup>

Today, these findings remain accurate.<sup>28</sup>

Some confusion exists over whether fetal tissue was used in the creation of the COVID-19 vaccines. While *cell lines* derived from the tissue of aborted babies have been used in the development of various COVID-19 vaccines to varying degrees (the AstraZeneca and Johnson & Johnson vaccines used aborted fetal cell lines in their development, whereas the Moderna and Pfizer vaccines used aborted fetal cell lines in their testing),<sup>29 30</sup> *aborted fetal tissue* itself was not used in the creation of any of the vaccines.<sup>31</sup> This is not to say that the use of aborted fetal cell lines by scientists is not morally problematic; merely that fetal tissue and fetal cell lines are not the same thing.<sup>32</sup>

Fetal tissue is tissue directly taken from an unborn child. Fetal cell lines are descended from cells taken from an aborted unborn child and multiplied into many other cells of the same kind. The aborted cell lines used in the COVID-19 vaccines, the HEK-293 cell line and the PER.C6 cell line, descend from babies aborted 30 years ago, making current cell lines generations of cells removed from the original tissue. While fetal cell lines have produced several “advances” in science, scientists have an obligation to respect the dignity of the unborn and should not experiment on aborted fetal tissue or cells derived from aborted fetuses.

Furthermore, although fetal cell lines were used in the production and testing of COVID-19 vaccines and other vaccines, fetal cell lines are not necessary for the production of any vaccines, as vaccines can be developed using no cells or cells from animals, insects, chicken eggs, or yeast.<sup>33</sup>

Proponents of fetal tissue research are campaigning for an unnecessary, antiquated practice. In 2007, the Japanese researcher Shinya Yamanaka discovered the ability to reverse-engineer cells back to the pluripotent stage, the point at which they could be used to produce any type of cell in the body except the placenta, thus creating an ethical cell source for research.<sup>34</sup> Because of Yamanaka’s discovery, adult

stem cells have been altered to mimic the behavior of embryonic stem cells in order to show results relating to human development and gestation more accurately.<sup>35</sup>

In recent years, the effectiveness of adult stem cells has recurrently invalidated the necessity of using fetal tissue for medical research. A 2019 study<sup>36</sup> of neuromyelitis optica, an autoimmune disorder reminiscent of multiple sclerosis (MS), proved that adult stem cells were successful in treating and reversing the disease—something that cannot be said of fetal tissue.<sup>37</sup>

Further exploration into the use of adult stem cells is necessary, as these cells have proved to be the source of many scientific advances. Scientists should focus on research that has yielded results—not fetal tissue research. Dr. David Prentice, vice president and research director of the Charlotte Lozier Institute, stated that adult stem cells are the “gold standard of stem cells.”<sup>38</sup> Dr. Prentice also argued that researchers are “trying to paint a nice picture about a need for aborted baby tissues and organs for research when the fact is there is no need for that. It has not produced any good results.”<sup>39</sup>

Although human fetal tissue has not produced a single medical treatment, for the doctors and scientists who insist on using it, this tissue can be obtained from ethical sources, such as miscarriages and stillbirths. On March 26, 2021, Sens. Mike Lee (R-Utah) and Marco Rubio (R-Fla.), along with 15 of their colleagues, sent a letter to Department of Health and Human Services (HHS) Secretary Xavier Becerra requesting the agency “expand the existing organ-donation network to include spontaneously miscarried and stillborn infant donors.” The letter noted that expanding the organ donation network to include stillborn and miscarried babies would create an ethically uncontroversial source of human fetal tissue.<sup>40</sup>

### *Federal Action on Fetal Tissue Research*

Under the Trump administration, HHS convened the Human Fetal Tissue Research Ethics Advisory Board.<sup>41</sup> This board reviewed all proposed research projects involving human fetal tissue derived from induced abortion before the NIH was permitted to designate grant money to them. This process

ensured that an extra safeguard of ethical consideration could block research utilizing human fetal tissue that crossed ethical boundaries in the name of scientific discovery. In June of 2019, the Trump administration ended all distribution of funds for research using fetal tissue, canceling multi-million-dollar contracts with laboratories that carried out this unethical research. This decision was the most comprehensive federal ban on fetal tissue research to date.<sup>42</sup> Still, in the 2019 fiscal year, the NIH spent \$120 million in taxpayer dollars on research projects using human fetal tissue.<sup>43</sup>

In April 2021, President Biden announced that the NIH was no longer required to follow this protocol of obtaining approval from an ethics advisory board before disbursing grants.<sup>44</sup> By removing this layer of external review, the Biden administration allowed researchers to determine for themselves whether their experimentation crosses ethical lines and utilize human fetal tissue in whatever manner they see fit, funded by grants of federal tax dollars.

On May 25, 2021, because of the recent horrors involving fetal tissue and the failure of the current executive branch to protect the dignity of the unborn, Sens. Mike Lee, Marco Rubio, Steve Daines (R-Mont.), Rick Scott (R-Fla.), and James Risch (R-Idaho) introduced an amendment prohibiting fetal tissue research obtained from an induced abortion or creating or destroying human embryos. This legislation failed 48-51, with senators largely voting along party lines. Notably, Democrat Joe Manchin (W.Va.) voted in favor of the ban, while Democrat Bob Casey (Pa.) opposed it. Republicans Susan Collins (Maine) and Lisa Murkowski (Alaska) also opposed the ban.

Additionally, Sen. Cindy Hyde-Smith (R-Miss.) and Rep. Blaine Luetkemeyer (R-Mo.) are the lead sponsors of the Protecting Life and Integrity in Research Act. This bill would essentially codify the Trump administration's ban on fetal tissue research by outlawing federal funding for research using human fetal tissue and outlawing the harvesting of aborted baby body parts. If passed, this legislation would redirect NIH resources to prioritize research that does not use aborted fetal tissue.

Fetal tissue research bans should be put in place to help establish a code of ethics, provide additional protections for women, and respect the dignity of the unborn. The findings indicate that research

involving fetal tissue does not provide any significant contributions to medical advancement. Instead, it furthers the mistreatment of women and unborn children during and after the abortion procedure.

## **Ban on the Creation of Chimeras**

Laws that prohibit the creation of organisms that are part human-part animal (otherwise known as chimeras) are a necessary component of recognizing the unique dignity of the human person. The University of Pittsburgh's inhumane research that desecrated the bodies of aborted unborn babies by grafting them onto mice points to the urgent need for laws prohibiting this type of research.<sup>45</sup>

Although it is clear that grafting an unborn baby's body parts onto an animal violates the unborn child's dignity, the creation of human-animal creatures raises several other ethical questions. For example, was the mother of the aborted unborn child aware her child's remains would be grafted onto an animal? How should these new creatures be treated? Which organs make a human being a human being? Do animals that have human organs have more rights than animals that do not?

Amid the overwhelming number of ethical questions posed by the creation of these creatures is the reality that the scientific benefit from their creation is virtually nonexistent. For years, scientists have grafted various human disease genes or cells into immune-deficient mice, thereby allowing scientists to study the effectiveness of various forms of treatment.<sup>46</sup> As was acknowledged by Dr. Rich at the University of Pittsburgh hearing, successful cures in mice that have developed from research on mice do not result in successful cures for human beings.<sup>47</sup>

The creation of human-animal hybrids is simply another method of degrading the remains of an aborted unborn child. Although federal funding for this type of research at the embryonic level is currently banned by the NIH, the University of Pittsburgh's research—which occurred after the embryo had developed into a fetus—received NIH funding. Furthermore, the International Society for Stem Cell Research has recommended that the United States allow “incremental human-animal chimera

research.”<sup>48</sup> In response, the NIH stated that the agency would look to the ISSCR guidelines “to ensure our position reflects input from the community.”<sup>49</sup>

Senator Mike Braun has led congressional efforts to prohibit the creation of human-animal hybrids, introducing an amendment on the Senate floor. This legislation failed to pass, with senators voting 49-48 against the amendment along party lines (Republicans for the prohibition, Democrats against it).

## **Prohibiting the Sale of or Profit from Baby Body Parts**

Laws prohibiting the sale of baby body parts are an important component of acknowledging the human dignity of the unborn. There is money to be made from selling baby body parts, as the investigation by the Center for Medical Progress revealed. Although the sale of human body parts is illegal at the federal level, there is a large loophole for fetal tissue sales that must be closed.

The NIH Revitalization Act of 1993 (42 USC 289g-2) prohibits the sale of human fetal tissue if the tissue is sold for “valuable consideration” and “affects interstate commerce”—in other words, if the fetal tissue is sold for profit. The statute states that “[t]he term ‘valuable consideration’ does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.”<sup>50</sup> Any profit made after costs are subtracted violates this statute. Yet, the abortion industry has used and abused this “valuable consideration” loophole to traffic the body parts of aborted babies and make a profit, as described previously. Prohibiting the sale of baby body parts would prevent the abortion industry from abusing the “valuable consideration” loophole.

## **Conclusion**

In recent years, American consciences have been shocked by the discovery of baby remains in jars, human hair growing on laboratory rodents, and taped conversations about selling baby body parts. The remains of unborn children should not be sold as a commodity or placed in jars—they should be treated with the respect members of the human family deserve. Stronger protections must be put in place to

assist grieving women and ensure that the tragically short lives of these infants are treated with dignity. Fetal dignity laws are a powerful means of accomplishing this.

*Mary Szoch, M.Ed. is Director of the Center for Human Dignity at Family Research Council.*

*Katherine Beck Johnson, J.D., is Research Fellow for Legal and Policy Studies at Family Research Council.*

*Contributing Author:*

*Arina O. Grossu, M.A., M.S. Bioethics, formerly served as Director of the Center for Human Dignity at Family Research Council.*

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<sup>1</sup> Yash Agarwal, et al., “Development of Humanized Mouse and Rat Models with Full-Thickness Human Skin and Autologous Immune Cells,” *Scientific Reports* 10 (2020), accessed July 13, 2021, <https://www.nature.com/articles/s41598-020-71548-z>.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Stuart W.G. Derbyshire and John C. Bockmann, “Reconsidering Fetal Pain,” *Journal of Medical Ethics* 46, no. 1 (2020), accessed March 3, 2021, <https://jme.bmj.com/content/46/1/3>.

<sup>5</sup> Ibid.

<sup>6</sup> U.S. Representative Glenn Grothman, “Debunking the Myth of Fetal Tissue Research,” press release, December 13, 2018, <https://grothman.house.gov/news/documentsingle.aspx?DocumentID=873>.

<sup>7</sup> David Daleiden, “NIH fetal experimentation funding sponsors infanticide,” *Washington Examiner*, June 7, 2019, accessed July 13, 2021, <https://www.washingtonexaminer.com/opinion/op-eds/nih-fetal-experimentation-funding-sponsors-infanticide>.

<sup>8</sup> “Pro-Life Laws in the States,” Family Research Council, accessed July 13, 2021, <https://www.frc.org/prolifemaps>.

<sup>9</sup> “Final Report - Select Investigative Panel of the Energy & Commerce Committee,” U.S. House of Representatives, December 30, 2016, [https://republicans-energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/documents/Select\\_Investigative\\_Panel\\_Final\\_Report.pdf](https://republicans-energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/documents/Select_Investigative_Panel_Final_Report.pdf).

<sup>10</sup> “Document Vault,” Center for Medical Progress, accessed September 27, 2019,



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<http://www.centerformedicalprogress.org/human-capital/document-vault/>.

<sup>11</sup> “Interim Update To the U. S. House of Representatives from the Chairman and Majority Members of the Select Investigative Panel on *The Transfer of Fetal Tissue and Related Matters*,” 41, [https://www.operationrescue.org/wp-content/uploads/2016/07/20160714Interim\\_Update.pdf](https://www.operationrescue.org/wp-content/uploads/2016/07/20160714Interim_Update.pdf).

<sup>12</sup> “Fetal Liver – CD133+ Stem/Progenitor Cells,” StemExpress, accessed September 27, 2019, <http://www.centerformedicalprogress.org/archive/stemexpress/07-16-2015/shop/fetal-liver-cd133-stemprogenitor-cells-2/index.html>.

<sup>13</sup> Brooke Singman and Jake Gibson, “Planned Parenthood under investigation by Justice Department over sale of fetal tissue,” Fox News, December 7, 2017, accessed October 2, 2019, <https://www.foxnews.com/politics/planned-parenthood-under-investigation-by-justice-department-over-sale-of-fetal-tissue>.

<sup>14</sup> Mary Margaret Olohan, “Over 2,000 Fetal Remains Found on Abortion Doctor’s Property, Sheriff’s Office Says,” *The Daily Signal*, September 15, 2019, accessed September 27, 2019, <https://www.dailysignal.com/2019/09/15/over-2000-fetal-remains-found-on-late-abortion-doctors-property-sheriffs-office-says/>.

<sup>15</sup> Melissa Barnhart, “165 aborted babies found in trunk of Ulrich Klopfer’s Mercedes Benz,” *The Christian Post*, October 10, 2019, accessed October 14, 2019, <https://www.christianpost.com/news/aborted-babies-remains-found-ulrich-klopfers-mercedes-benz.html>.

<sup>16</sup> Brian Francisco, “Probe sought into ex-abortion doctor,” *The Journal Gazette*, September 17, 2019, accessed October 8, 2019, <https://www.journalgazette.net/news/local/20190917/probe-sought-into-ex-abortion-doctor>.

<sup>17</sup> Lincoln Wright, “Calls for ‘thorough investigation’ after fetal remains found in ex-South Bend abortion doctor’s home,” *South Bend Tribune*, September 18, 2019, accessed October 8, 2019, [https://www.southbendtribune.com/news/local/calls-for-thorough-investigation-after-fetal-remains-found-in-ex/article\\_50773f11-2428-5cb0-ba5a-f2fd1b7d8643.html](https://www.southbendtribune.com/news/local/calls-for-thorough-investigation-after-fetal-remains-found-in-ex/article_50773f11-2428-5cb0-ba5a-f2fd1b7d8643.html).

<sup>18</sup> *Box v. Planned Parenthood of Indiana and Kentucky, Inc.*, 587 U. S. (2019), [https://www.supremecourt.gov/opinions/18pdf/18-483\\_3d9g.pdf](https://www.supremecourt.gov/opinions/18pdf/18-483_3d9g.pdf).

<sup>19</sup> *Akron v. Akron Center for Reproductive Health, Inc.*, 462 U.S. 416 (1983), [https://www.law.cornell.edu/supremecourt/text/462/416#writing-USSC\\_CR\\_0462\\_0416\\_ZO](https://www.law.cornell.edu/supremecourt/text/462/416#writing-USSC_CR_0462_0416_ZO).

<sup>20</sup> *Dignity for Aborted Children Act*, United States Senate, September 2019, accessed September 30, 2019, <https://www.congress.gov/bill/116th-congress/senate-bill/2590/text>.

<sup>21</sup> AL Code § 26-23F-5

<sup>22</sup> Ohio Rev. Code Ann. § 2919.14

<sup>23</sup> Tamar Lewin, “A Move for Birth Certificates for Stillborn Babies,” *The New York Times*, May 22, 2007, accessed September 27, 2019, <https://www.nytimes.com/2007/05/22/us/22stillbirth.html>.

<sup>24</sup> “Final Report - Select Investigative Panel of the Energy & Commerce Committee,” U.S. House of Representatives, 399-400.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

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- <sup>28</sup> Tony Perkins, “HHS Chief’s New (Re)search and Destroy Mission,” Family Research Council, April 19, 2021, accessed July 13, 2021, <https://www.frc.org/updatearticle/20210419/hhs-research>.
- <sup>29</sup> “Fact Sheet: COVID Vaccines & Fetal Cell Lines,” Charlotte Lozier Institute, <https://lozierinstitute.org/wp-content/uploads/2020/09/09.17.20-Fetal-Cell-Line-Fact-Sheet.pdf>.
- <sup>30</sup> “Analysis of COVID-19 Vaccine Candidates,” Charlotte Lozier Institute, June 2, 2021, <https://s27589.pcdn.co/wp-content/uploads/2020/12/06.02.21-warp-speed-vaccines-June.pdf>.
- <sup>31</sup> Ibid.
- <sup>32</sup> “You asked, we answered: Do the COVID-19 vaccines contain aborted fetal cells?” Nebraska Medicine, March 2, 2021, accessed July 13, 2021, <https://www.nebraskamed.com/COVID/you-asked-we-answered-do-the-covid-19-vaccines-contain-aborted-fetal-cells>.
- <sup>33</sup> “Fact Sheet: COVID Vaccines & Fetal Cell Lines,” Charlotte Lozier Institute.
- <sup>34</sup> Megan Scudellari, “How IPS Cells Changed the World,” *Nature* 534 (2016): 310-312, accessed July 13, 2021, <https://www.nature.com/articles/534310a>.
- <sup>35</sup> “Stem cells: What they are and what they do,” Mayo Clinic, June 8, 2019, accessed July 13, 2021, <https://www.mayoclinic.org/tests-procedures/bone-marrow-transplant/in-depth/stem-cells/art-20048117>.
- <sup>36</sup> Richard K. Burt, et al., “Autologous Nonmyeloablative Hematopoietic Stem Cell Transplantation for Neuromyelitis Optica,” *Neurology* 93, no. 18 (2019), accessed July 13, 2021, <https://n.neurology.org/content/93/18/e1732>.
- <sup>37</sup> Katey Price, “New Study: Adult Stem Cells Reverse Progressive MS-like Disease,” Charlotte Lozier Institute, October 9, 2019, accessed July 13, 2021, <https://lozierinstitute.org/new-study-adult-stem-cells-reverse-progressive-ms-like-disease/>.
- <sup>38</sup> Ibid.
- <sup>39</sup> Tony Perkins, “HHS Chief’s New (Re)search and Destroy Mission,” Family Research Council.
- <sup>40</sup> Sen. Mike Lee, et al. to Secretary Xavier Becerra, March 26, 2021, [https://www.lee.senate.gov/public/\\_cache/files/164f1071-c584-45af-973f-a9285f4df048/lee-letter-to-becerra-on-expanding-organ-donation-bank-3.26.21.pdf](https://www.lee.senate.gov/public/_cache/files/164f1071-c584-45af-973f-a9285f4df048/lee-letter-to-becerra-on-expanding-organ-donation-bank-3.26.21.pdf).
- <sup>41</sup> Meredith Wadman, “New U.S. ethics board rejects most human fetal tissue research proposals,” *Science*, August 18, 2020, accessed July 13, 2021, <https://www.sciencemag.org/news/2020/08/new-us-ethics-board-rejects-most-human-fetal-tissue-research-proposals>.
- <sup>42</sup> Amy Goldstein, “New Restriction on Fetal Tissue Research ‘Was the President’s Decision,’” *The Washington Post*, June 11 2019, accessed July 13, 2021, [https://www.washingtonpost.com/health/trump-administration-imposes-new-restrictions-on-fetal-tissue-research/2019/06/05/b13433c0-8709-11e9-a491-25df61c78dc4\\_story.html](https://www.washingtonpost.com/health/trump-administration-imposes-new-restrictions-on-fetal-tissue-research/2019/06/05/b13433c0-8709-11e9-a491-25df61c78dc4_story.html).
- <sup>43</sup> Jeannie Baumann, “Trump-Era Fetal Tissue Research Restrictions Reversed by HHS (1),” *Bloomberg Law*, April 16, 2021, accessed July 13, 2021, <https://news.bloomberglaw.com/health-law-and-business/trump-era-fetal-tissue-research-restrictions-reversed-by-hhs>.
- <sup>44</sup> “Catholic bioethicist laments HHS removal of restrictions on fetal tissue research,” *Catholic Sentinel*, May 7, 2021, accessed July 13, 2021, <https://catholicsentinel.org/Content/News/Nation-and-World/Article/Catholic-bioethicist-laments-HHS-removal-of-restrictions-on-fetal-tissue-research/2/34/43370>.

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<sup>45</sup> Yash Agarwal, et al., “Development of Humanized Mouse and Rat Models with Full-Thickness Human Skin and Autologous Immune Cells.”

<sup>46</sup> J.J. Mulé, D.L. Jicha, and S.A. Rosenberg, “The Use of Congenitally Immunodeficient Mice to Study Human Tumor Metastases and Immunotherapy,” *Journal of Immunotherapy* 12, no. 3 (1992): 196–198, accessed June 14, 2021, <https://europepmc.org/article/med/1445811>.

<sup>47</sup> Sam Zimmerman, “Why Drugs Tested in Mice Fail in Human Clinical Trials,” *Science in the News*, Harvard University Graduate School of Arts and Sciences, February 11, 2020, accessed June 14, 2021, <https://sitn.hms.harvard.edu/flash/2020/why-drugs-tested-in-mice-fail-in-human-clinical-trials/>.

<sup>48</sup> “ISSCR Guidelines for Stem Cell Research and Clinical Translation - Guidelines for the Field of Stem Cell Research and Regenerative Medicine,” International Society for Stem Cell Research, 2021, accessed July 13, 2021, <https://www.isscr.org/policy/guidelines-for-stem-cell-research-and-clinical-translation>.

<sup>49</sup> Jocelyn Kaiser, “Studies that make brainlike structures or add human cells to animal brains are ethical, for now, panel says,” *Science*, April 8, 2021, accessed June 14, 2021, <https://www.sciencemag.org/news/2021/04/studies-make-brainlike-structures-or-add-human-cells-animal-brains-are-ethical-now>.

<sup>50</sup> 498B of the Public Health Service Act (42 U.S.C 289g-2), National Institutes of Health, accessed October 14, 2019, <https://grants.nih.gov/grants/guide/notice-files/not93-235.html>.