

REPRODUCTIVE FREEDOMS

This is one of those topics that has more facets than there are stars in the sky. It's also one that almost everyone has a strong opinion about. Not shockingly, those opinions aren't necessarily on solid factual ground, in part because the ground has fundamentally shifted. Prior to the Dobbs decision, reproductive freedoms or rights were intrinsically thought of as abortion rights. Now, Reproductive Freedoms means much more, and they are not just affecting women. It now encompasses fertility treatments, including IVF, contraception, emergency pregnancy care and any right that was once guaranteed under the Constitutional concept of "privacy rights." Let's try to break it all down to bite size bits.

How we got here – the legal terrain:

Before June 24, 2022, any discussion about Reproductive Freedoms revolved around Pro Choice & Pro Life, as the sides on the abortion question were called. When the Supreme Court overturned *Roe v Wade*, it opened Pandora's box. On June 24, 2022, the U.S. Supreme Court handed down the *Dobbs v. Jackson Women's Health Organization* decision, overturning the 1973 *Roe v. Wade* decision that recognized a woman's right to terminate a pregnancy. The vote was 6–3. The three justices appointed by former president Trump joined Samuel Alito, Clarence Thomas, and Chief Justice John Roberts to strip a constitutional right from the American people, a right enjoyed for almost 50 years, a right that is considered a fundamental human right in most liberal democracies, and a right they had previously indicated they would protect because it was settled law. For the first time in our history, rather than conveying rights, the court explicitly took a constitutional right away from the American people.

Overturning of *Roe v. Wade* upended American politics. The majority of Americans alive today have always lived in a country with abortion access recognized as a constitutional right, and most had not thought they could lose that right. The Court's extremism has led MAGA Republicans to call for national bans on abortion, contraception, and in vitro fertilization (IVF). More generally, it has increasingly made them call for violence against their opponents. On June 21, for example, Representative Chip Roy (R-TX) posted on social media: "I do want to 'ethnic

cleanse' by deporting white progressive Democrats—with a special bonus for rich ones with an Ivy League degree. I really do not like 'those people.'”

[June 24, 2024 - by Heather Cox Richardson \(substack.com\)](#)

The Roe v. Wade framework:

In **Roe v. Wade (1973)**, the U.S. Supreme Court established that a woman has a constitutional right to privacy that includes the right to choose to have an abortion. The Court's decision effectively allowed states to regulate abortions, but it set a framework that included the three trimesters of pregnancy. In the first trimester, it allowed almost no regulations. In the second, it allowed regulations to protect women's health. In the third, it allowed states to ban abortions as long as exceptions were made to protect the life and health of the mother.

The Supreme Court notably revisited *Roe v. Wade* in 1992 when reviewing *Planned Parenthood v. Casey*. In that case, the Court once again upheld a pregnant person's right to choose abortion. But, it changed the framework created in *Roe*. Instead of requiring states to regulate abortion based on trimesters, the Court created a standard based on "fetal viability." The viability standard was not tied to a specific number of weeks but was based on the fetus's ability to survive outside the womb, which generally occurs around 24 to 28 weeks of gestation.

Now with the *Dobbs* decision, both *Roe* and *Casey* have been overturned holding that there is no right by a pregnant person to an abortion. In stripping that right other settled rights have also been stripped or put into question, such as the right to contraception, to fertility treatments and other “privacy rights” since the underlying constitutional justification to such rights has been striped away. With no constitutional protections the issues have been thrown back to states to determine the law and therefore the rights of individuals on these issues. Thus leaving a patchwork of law and regulations for pregnant individuals to surmount.

[What Did Roe v. Wade Say? - The New York Times \(nytimes.com\)](#)

[Roe v. Wade Case Summary: What You Need to Know - FindLaw](#)

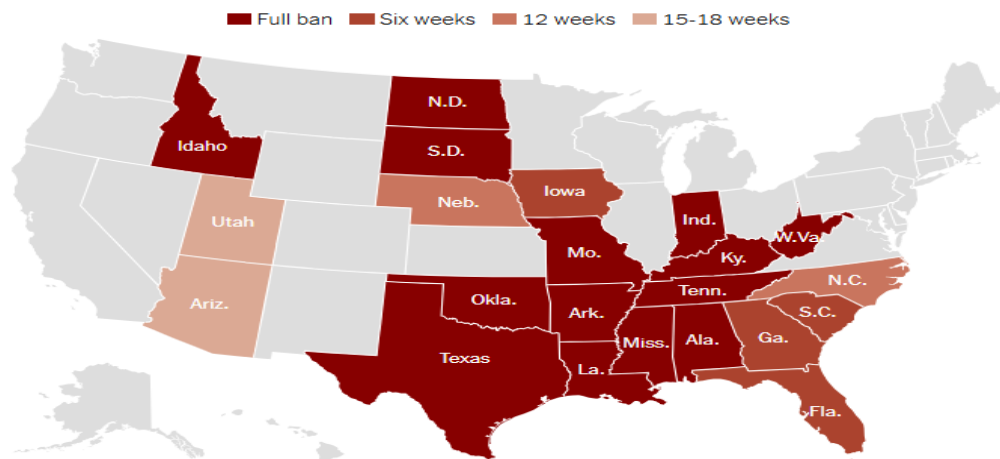
Arizona, Florida, Texas, Alabama, Idaho...who's next?

In the Court's 2022 decision, written by Justice Alito, the court said that the right to determine abortion rights must be returned "to the people's elected representatives" at the state level. As soon as the court overturned *Roe v. Wade*, Republican-dominated states began restricting abortion access. Anyone denied abortion access in these states must either overcome the logistical and financial hurdles of traveling out of state, navigate a self-managed abortion or carry an unwanted pregnancy to term.

Interactive Map: US Abortion Policies and Access After Roe | Guttmacher Institute

Abortion Laws by State - Center for Reproductive Rights

Updated Aug. 23, 2024 at 12:26 p.m. E.T.



Abortion on the ballot:

As state laws prohibiting abortion took effect, voters worked to protect abortion rights. In seven states, including Republican-dominated Kansas, Kentucky, and Ohio, voters put abortion rights on the ballot: California, Kansas, Kentucky, Michigan, Montana, Vermont, and Ohio.

In all seven of these states, voters sided with abortion rights supporters. For the upcoming 2024 election cycle, several more states are planning or considering abortion-related ballot measures:

- Arizona, Colorado, Florida, Maryland, Missouri, Montana, Nebraska, Nevada, New York, and South Dakota have confirmed or are considering abortion-related constitutional amendments for the 2024 ballot.
- Some states, like Nebraska, may have multiple competing abortion-related measures on the ballot.
- Other states like Iowa, Pennsylvania, and Maine have attempted to get abortion measures on ballots, but face hurdles that make it unlikely.

[Abortion Is on the Ballot in These States in 2024 | TIME](#)

[Abortion is on the ballot in these states for November elections \(axios.com\)](#)

[Which states could have abortion rights on the ballot in November? | PBS News](#)

The real-world effects of the Dobbs decision:

The reality of knowing you are pregnant.

The onerousness of the abortion ban periods becomes clearer when you realize that most people discover they are pregnant through a home pregnancy test after they have missed their period. While some people may have a positive pregnancy test in the third week, most home pregnancy tests won't detect pregnancy until the fourth week. For many with irregular periods, one missed period is initially perceived as delayed and is easily not realized in time to comply particularly with a six-week ban. At the same time, many of these states have limited facilities that perform abortions so the waiting time can be protracted causing many not to be able to schedule the procedure within the permitted time limits. Other states require multiple visits and other requirements protracting the process and shortening the window to arrange for the procedure. So, a six-week ban in a large percentage of cases is for all practical purposes a total ban. Those who draft these bans know that.

The reality of women's health and the potential exceptions.

Exactly what the loss of the right means became clear just days after the *Dobbs* decision, when news broke that a ten-year-old rape victim had been unable to obtain an abortion in Ohio and had to cross state lines to Indiana, where the Indiana attorney general, Todd Rokita, publicly attacked the doctor who treated the girl.

Other notable stories came to light of women who have had to cross state lines to seek abortion care due to restrictive laws in their home states. These stories often highlight the challenges and burdens that such legal restrictions can place on individuals seeking reproductive healthcare. Here are a few examples:

1. **Amanda Zurawski:** She was denied an abortion in Texas despite facing life-threatening complications during pregnancy. Zurawski had to wait until she was sick enough to receive standard abortion care, which put her life at risk. Amanda Eid and Josh Zurawski tried to have a family but failed. Amanda had fertility treatments for a year and a half and finally became pregnant. After her water broke prematurely, she was told her baby would not survive and she was at risk for life threatening infection. Only when she was “considered sick enough that my life was at risk” would they terminate the pregnancy, Amanda said. While Texas has an exception for the “life of the mother”, she said the doctors were unsure if they could legally perform the abortion until she was at actual risk of death not just likely risk of death. After being rushed back to the hospital it was touch and go as she developed signs of sepsis which would kill her. After the pregnancy was finally terminated doctors were able to get the infection under control. However, Amanda’s uterus suffered scarring from the infection, and she may not be able to have more children.
2. **Kaitlyn Joshua:** From Louisiana, she was denied miscarriage care due to the state's strict abortion laws. She described being in pain and bleeding heavily while two emergency rooms turned her away. Once again, the medical staff was reluctant to perform an abortion despite her obvious pain and severe bleeding because she was not immediately at risk of death. Her fetus was not viable, but she was not sick enough for care.
3. **Brittney Poolaw:** In 2021, Brittney Poolaw, a 22-year-old from Oklahoma and a member of the Comanche nation, suffered a miscarriage. She was convicted of first-degree

manslaughter for having a miscarriage, which the prosecutor blamed on her alleged use of methamphetamine.

4. **Taylor Shelton**, a woman in her mid-20s from South Carolina, had to travel to North Carolina three times to receive abortion care. Even though she found out she was pregnant at 4 weeks, South Carolina's six-week abortion ban and high demand for care in the state made it impossible for her to get an abortion before the 6-week mark. She ended up driving over 20 hours total to receive care in North Carolina.
5. **Victoria**, a 45-year-old woman from Louisiana, had to travel all the way to Oregon for a medication abortion. With Louisiana and neighboring states having restrictive laws, she chose Oregon for its strong protections of reproductive rights. The process involved taking time off work, two flights, and an 8-hour journey each way. Victoria described it as "probably one of the hardest things I've had to go through."
6. **Madi**, a 21-year-old college student from Texas, traveled over 400 miles to Mississippi for an abortion after Texas implemented its restrictive law banning abortions as early as 6 weeks. She discovered she was pregnant at 10 weeks, past the Texas cutoff. Madi called over 30 clinics in various states before finding an appointment at Jackson Women's Health, Mississippi's last remaining abortion clinic at the time

[Pregnancy: A Week by Week Guide \(verywellhealth.com\)](https://www.verywellhealth.com/pregnancy-a-week-by-week-guide/)

[Texas woman almost dies because she couldn't get an abortion | CNN](https://www.cnn.com/2022/07/15/health/texas-abortion-ban-woman-dies/index.html)

[DNC: Who are Amanda Zurawski, Kaitlyn Joshua and Hadley Duvall? \(19thnews.org\)](https://www.19thnews.org/dnc/who-are-amanda-zurawski-kaitlyn-joshua-and-hadley-duvall/)

[Opinion | The Brittney Poolaw Case: When a Miscarriage Is Manslaughter - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/07/15/opinion/brittney-poolaw-abortion-miscarriage.html)

[South Carolina woman sues state alongside Planned Parenthood over abortion ban : NPR](https://www.npr.org/2022/07/15/south-carolina-abortion-ban-woman-sues-planned-parenthood/)

[A 45-year-old got pregnant in a state with a ban on abortions. She flew across the country to get one | CNN](https://www.cnn.com/2022/07/15/health/45-year-old-pregnant-abortion-ban/index.html)

['My body is not their property': Texas woman's journey across state lines for an abortion - ABC News \(go.com\)](https://abcnews.go.com/US/story?id=88888888)

The MAGA stance: What Trump, Vance, and Project 2025 say:

Let's start with Project 2025. Project 2025 outlines several concerning proposals related to abortion, contraception, IVF, and reproductive rights:

1. Abortion:

- Effectively ban medication abortion nationwide by misusing the antiquated **Comstock Act** to block access to abortion pills and medical equipment used for abortion care.
- Stop enforcing federal law requiring hospitals to provide emergency abortion care.
- Delete the word "abortion" from every federal rule, agency regulation, contract, grant, and piece of legislation.
- Push abortion bans into "Blue" states that currently protect abortion access.

2. Contraception:

- Include "personhood" language and agency regulations and laws and policies that could ban some forms of birth control.

3. IVF and Fertility Treatments:

- The "personhood" language in laws, regulations and policies could potentially undermine or restrict access to assisted fertility treatments like IVF.

4. General Reproductive Rights:

- Track pregnancy outcomes, including abortions, across the country.
- Fund fake health centers (likely referring to crisis pregnancy centers).
- Insert anti-abortion disinformation into federal health policies.

5. Emergency Care:

- Stop enforcing the federal law requiring hospitals to provide emergency care to pregnant people who need an abortion, potentially forcing more people to endure life-threatening situations.

The Project 2025 plan aims to severely restrict reproductive freedoms through various federal policies and regulations, potentially impacting access to abortion, contraception, and fertility treatments across the United States, even in states that currently protect these rights.

[Gutting Abortion Access Under Project 2025 - Reproductive Freedom for All](#)

[Project 2025 Offers Dystopian View of America \(aclu.org\)](#)

[What is Project 2025? Wish list for a Trump presidency, explained \(bbc.com\)](#)

J.D.Vance's positions.

Here are some key points about JD Vance's statements and positions.

- **Abortion:** Vance has expressed strong pro-life views and has supported restrictive abortion measures. He has advocated for significant limitations on abortion, aligning with his broader stance against abortion rights. For instance, he supported Ohio's restrictive abortion laws and has spoken out against Roe v. Wade. His pro-life position includes backing laws that impose strict regulations on abortions and he has criticized the expansion of abortion access. He has supported a federal abortion ban, opposed exceptions for rape and incest, and said he wanted to protect life "from the date of conception." In January 2023, Vance signed a letter asking the Justice Department to enforce the Comstock Act, a long-dormant law from 1873, to ban the mailing of abortion medication.
- **IVF and Fertility Treatments:** Vance voted against a Senate bill in 2024 aimed at establishing protections for IVF. He endorsed a 2017 Heritage Foundation report that included criticism of fertility treatments like IVF.
- **Childlessness and Families:** Vance has made comments expressing concern about teachers who don't have biological children. He has repeatedly criticized childless Americans as being "miserable" and not having the same stake in the country's future as those with children. He cast Democratic leaders as "childless cat ladies" who don't have a true stake in the country's future. Vance has also made comments critical of no-fault divorce, [arguing](#) in 2021 that "children suffered" because of more relaxed views around divorce that started in the 1970s and as couples have increasingly viewed marriage as a "basic contract." He's against same-sex marriage and said he would not support federal legislation to codify marriage equality.

[Ohio Senate race: JD Vance opposes Respect for Marriage Act \(cincinnati.com\)](#)

[Ohio Senate election: J.D. Vance focuses on conservative family issues \(cincinnati.com\)](#)

[Ohio Senate election: J.D. Vance focuses on conservative family issues \(cincinnati.com\)](#)

Donald J. Trump's positions.

Like most issues, Trump's position has shifted depending on what he sees as most favorable at any given time. Here is a summary of Trump's evolving views on abortion over the years:

1. 1999: Trump described himself as "very pro-choice" in an NBC interview, saying "I hate the concept of abortion. I hate it. I hate everything it stands for. But you still — I just believe in choice."
2. 2016: During his presidential campaign, Trump took a strongly anti-abortion position, promising to appoint Supreme Court justices who would overturn *Roe v. Wade*. He stated "there has to be some form of punishment" for women who had abortions but wasn't in favor of punishment for men.
3. 2018: As president, Trump supported a federal ban on abortions after 20 weeks.
4. 2020: He promised to sign a federal ban into law
5. 2022: After *Roe v. Wade* was overturned, Trump took credit for the decision, calling it "the biggest WIN for LIFE in a generation."
6. 2023-2024: Trump has distanced himself from some restrictive state-level abortion laws, criticizing Florida's 6-week ban as "a terrible thing and a terrible mistake."
7. March 2024: After reports surfaced that he told others he was considering a federal abortion ban at 16 weeks, his campaign dismissed them as "fake news." Soon after, Sen. Lindsey Graham (R-SC) told NBC News that "Trump is warming up to 16 weeks." And then Trump himself in an interview suggested he'd support a 15-week ban.
8. April 2024: Trump said abortion policy should be left to individual states: "My view is now that we have abortion where everybody wanted it from a legal standpoint, the states will determine by vote or legislation or perhaps both, and whatever they decide must be the law of the land — in this case, the law of the state."
9. 2024: He has also claimed that EVERYONE was in favor of returning the decision to the states; that no confusion has occurred because of overturning *Roe*, and that most people are in favor of what the Supreme Court decided.

Analysts note that if re-elected, Trump would have significant executive authority to restrict abortion access nationally, despite his recent states' rights stance. This could include reversing

Biden administration protections and potentially enforcing restrictive interpretations of federal laws like the Comstock Act. Overall, Trump's position on abortion has shifted multiple times over the years, often aligning with his political goals at the time.

[Trump's many, many positions on abortion: A timeline \(nbcnews.com\)](https://www.nbcnews.com/politics/donald-trump/trumps-many-abortion-positions-timeline-rcna146601)

<https://www.nbcnews.com/politics/donald-trump/trumps-many-abortion-positions-timeline-rcna146601>

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