

FACT SHEET

What to Know About Abortion Laws

Federal Laws Governing Abortion

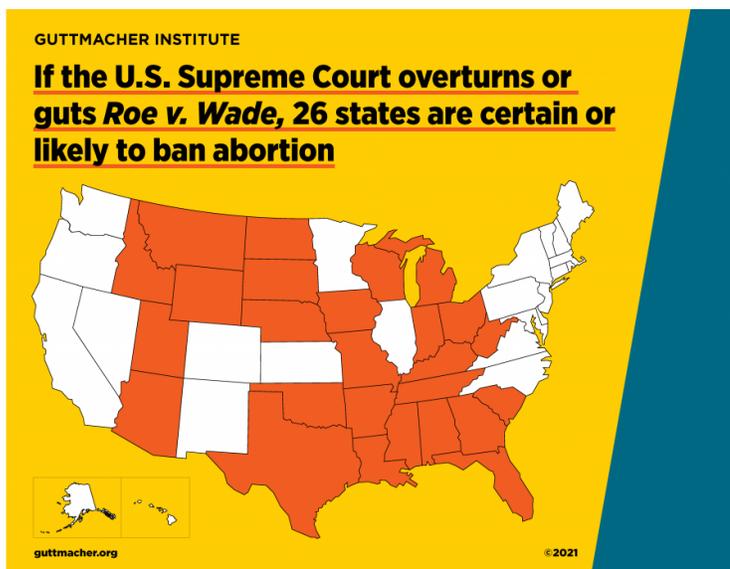
- **The FDA has approved the use of abortion medication for up to 10 weeks, and it can be mailed to all 50 states.** — Certain states have attempted to outlaw or restrict its use, but the FDA’s regulations have remained difficult to enforce. This medication makes early-term abortions safe and effective.
- **States can already place severe restrictions on abortion access, as many have throughout the South and Midwest.** — Planned Parenthood v. Casey (1992) allowed states to create restrictions on abortion that do not place a substantial obstacle on someone’s decision to obtain an abortion up to fetal viability. The Supreme Court struck down a spousal notification law, but it has allowed parental permission, informed consent, and 24-hour waiting period laws.
- **There is a federal restriction on funding abortions through Medicaid and other federal funds except in cases of rape or incest, or the life of the pregnant parent is at risk.** — The Hyde Amendment was deemed constitutional by the Supreme Court in Harris v. McRae (1980).

Impact of *Dobbs v. Jackson Women’s Health Organization*

- **Dobbs v. Jackson Women’s Health Organization (2022) will determine if Mississippi’s 15-week ban on abortion is constitutional.** — Fetal viability usually begins at 23-24 weeks of pregnancy, and banning abortion at 15 weeks is a violation of the current Casey precedent, which allows states to regulate but not ban abortion up until viability.
- **States will decide abortion rights and access requirements if the Supreme Court explicitly overrules Roe v. Wade, for now.** — States may determine whether or not abortion is legal in their state and what restrictions will be placed on it. These laws will vary widely and become complicated for pregnant patients depending on where they live. This patchwork is already the reality for pregnant people in many

states, but it will become even more difficult to locate an abortion if Roe is overturned because of outright bans.

- **Twenty-two states would ban abortion immediately or soon after Roe v. Wade is overturned.** — Four additional states are likely to ban abortion but don't currently have a ban in place. Nine states already have some sort of abortion ban on the books that would immediately become enforceable if Roe is overruled, as Roe has prevented prosecutors from enforcing these bans. Thirteen states have what is called a "trigger ban," which would immediately "trigger" a ban if Roe falls.



Source: [guttmacher.org](https://www.guttmacher.org)

- **States would be able to ban abortion entirely, with civil or criminal penalties.** — The May 2022 leaked opinion drafted by Justice Alito in Dobbs v. Jackson Women's Health Organization would overrule both Roe and Casey outright. This means states would be open to ban abortion entirely—civilly or criminally. The language of the *final* decision will determine what rights pregnant people will have throughout the country, if any.
- **Overruling Roe may immediately impact IVF and emergency contraception in states that outlaw abortion entirely. It may not require additional rulings to whittle away at those rights.** — This will depend on the final language in the Dobbs ruling. For example, Oklahoma just enacted a law that bans abortion entirely (i.e., from the moment of fertilization). Banning abortion from fertilization means that other Assisted Reproductive Technologies that help people conceive would be

at risk. In-Vitro Fertilization (IVF) would be impacted as it gestates multiple embryos that can be used to implant a pregnancy. Birth control, including emergency contraceptives, are not abortifacients. However, in Burwell v. Hobby Lobby (2014), the Supreme Court allowed Hobby Lobby to exempt emergency contraceptives under the false belief that they are an abortifacient despite scientific fact. This decision left room for states to include certain birth control methods in an abortion ban.

- **If states ban certain medications that help treat or induce abortion, the care of pregnant people will be jeopardized because the medications they use can ease miscarriages and help manage other medical conditions.** — Medications used in abortion care are also used to help deadly ectopic pregnancies, lupus, and patients undergoing chemotherapy.
- **The Women’s Health Protection Act (WHPA) recently failed in the U.S. Senate, leaving no federal protection for abortion rights if Roe is overturned by the Supreme Court.**

Virginia Laws Governing Abortion Access

- **Virginia is currently a safe haven for people who need abortion care throughout the country. Abortion is legal in Virginia, without restriction, up to the third trimester (roughly 27 weeks). Late-term and third-trimester abortions are legal to protect the life or health of the pregnant parent.**
- **Virginia enacted the Reproductive Health Protection Act (RHPA) in 2020 with its first trifecta of Democratic leadership since 1993, becoming the first state in the South to roll back our abortion access restrictions and proactively protect access to abortion care and reproductive health.** — The RHPA removed all medically-unnecessary restrictions on abortion care access, including Targeted Restrictions on Abortion Providers (TRAP) laws such as requiring doctors provide first-trimester abortion care rather than nurse practitioners and mandating abortion facilities meet the requirements of and be classified as hospitals. It also eliminated the state’s previously restrictive policies, including, the 24-hour waiting period, state-mandated counseling, and a mandatory ultrasound prior to obtaining an abortion in Virginia.

- **Virginia’s only abortion restriction is parental consent for minors, unless the minor obtains a judicial bypass to obtain an abortion without notifying their parent(s).** — The only other restrictions on abortion in Virginia are funding related, not related to the procedure, medication, or providers.
- **In 2021, Virginia passed [SB 1276 and HB 1896](#), a law that allows the Virginia healthcare exchange to sell health insurance plans that provide abortion care.** — It does not require that its state healthcare exchange plans contain coverage for abortion care; it simply allows those plans to be bought and sold in the marketplace where it had been previously outlawed.
 - **Nevertheless, Virginia employees only have insurance coverage for abortions in the case of life endangerment, rape, incest, or fetal abnormality.** — This only refers to state funding that can be used for abortion procedures, not whether state employees may obtain an abortion with their own personal funds.
- **In 2021, Virginia-based abortion services [began offering medication abortion through the mail](#) after the FDA lifted its ban on mailing the medication.** — The Reproductive Health Protection Act allowed Virginia to allow medication abortion care without physically visiting an abortion clinic for pregnancies up to 9 weeks with a virtual consultation with a provider.