

CRIMINALIZING ABORTION; WILL THE SUPREME COURT OVERTURN ROE V. WADE?

PRE-LAW SOCIETY AT VIRGINIA COMMONWEALTH UNIVERSITY



The abortion is a controversial procedure and the “right to choose” is highly debated among American citizens. Disputes relating to the topic have made consistent appearances in United States courts since 1973 when Supreme Court case *Roe v. Wade* decriminalized abortion. *Roe v. Wade* legalized abortion federally, with the majority opinion stating that the Constitution provides a right to privacy for the choice to have an abortion.

While *Roe v. Wade* defines abortion as constitutional, the majority opinion also allows for states to pass their own laws pertaining to abortion. Even though abortions are legal in all 50 states, accessibility to abortion differs depending on the state you are in. Today, each state has varied restrictions on abortions, and cases continue to go to court each year relating to state abortion laws.

In 2021, many states are acting to restrict abortions further. Texas passed a law prohibiting abortions as early as six weeks into a pregnancy. A new New Hampshire law bans abortions from 24 weeks without exceptions for rape, incest or fatal fetal diagnoses. Arkansas passed a law in March banning abortion except for in medical emergencies. These three states and others that have passed abortion restriction bills are facing lawsuits challenging their abortion laws.

The Supreme Court's next term starts in October and one of the cases they have decided to take is an abortion case from Mississippi, *Dobbs v. Jackson Women's Health Organization*. The 2018 Mississippi law being challenged is a ban on abortions after 15 weeks of pregnancy, with very limited exceptions. The case has made its way to the Supreme Court after lower courts used *Roe v. Wade* as precedent, declaring the law unconstitutional.

Since there is a 6-3 conservative majority on the Supreme Court, conservatives have the numbers to overturn all lower court's citations of *Roe v. Wade* as precedent and allow Mississippi to criminalize abortion. If *Roe v. Wade* were to be overturned, Mississippi and at least 10 other states have anti-abortion “trigger bans” that would take effect and be enforced. It will be interesting to see whether or not the Supreme Court justices will vote to overturn *Roe v. Wade* after 50 years of constitutional and legal abortions in the United States.

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