

Right to Privacy vs. Right to Life: the battle continues

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I. EXECUTIVE SUMMARY

Since the founding of America, legislative battles over rights have existed. From voting rights, to the rights of African American citizens, to child labor laws. The most recent arena of this debate is over a woman's right to an abortion. Over the past few years, states have been passing increasingly restrictive policies. Much of this policy has been blocked by courts in the past, but with the Supreme Court's current conservative leaning, it is anticipated that state legislatures will increase policy efforts.

II. OVERVIEW

In a study done by the [Guttmacher Institute](#), a primarily pro-abortion institution, it was revealed that thirty states have introduced legislation banning abortion. It was found that in seven states, the bans have gone through at least one legislative chamber, and in six of those states, the ban was enacted. One of the analysts at the Guttmacher Institute, Elizabeth Nash, was quoted as saying, "What we're seeing right now is the buildup of decades where state legislatures have been adopting restriction after restriction, and now they're moving to adopt ban after ban." Her quote really means that the new legislation that is being passed is following a conservative trend, partially due to the perceived political stance of the courts. Some of this legislation is facing challenges, however. An example of a court challenge can be seen in Idaho, where they modeled their abortion ban based on Texas legislation. The Idaho Supreme Court temporarily blocked the legislation, which is indicative of some courts still pushing back against the conservative legislation. In a few states, citizens experiencing a swing in the opposite direction, with an increase in legislation that serves to protect the right to abortion.

Some states such as California are even going as far as to creating refuges for women seeking abortions. Through the bills that they are passing, it is going to be increasingly easier for women to access abortion clinics and services. Additionally, the bills aim to ensure that service providers are compensated well. Last year, a bill introduced that garnered the support from Governor Gavin Newsom and California Legislatures advocates for an increase in funding for abortion service providers, essentially removing the barriers for accessing abortions and increasing legal protection for clients seeking those services.

A. Pointed Summary

- Roe v. Wade is the landmark case that ruled access to abortion as a constitutional right
- Multiple states have introduced or passed legislation restricting abortion access
- Many of these laws are trigger laws which will ban abortion if Roe v. Wade is overturned

B. Relevance

In Texas there was a request for a fetal heartbeat [abortion ban](#), which was protected by the federal court. The law prohibits abortions after a heartbeat can be detected from the fetus. The court protection means that any challenges to the Texas law have been dismissed for the time being. In March, the Texas Supreme Court agreed that the state medical licensing clinics do not have the authority to enforce the abortion ban and cannot be sued. The U.S. Supreme Court erred towards abstention from intervention, which further complicated the fight for abortion providers. The new law instead advises people who do want to get an abortion to get it in states where it remains legal. However, even this is dangerous, as there is a provision that grants people \$10,000 for reporting people who assist a pregnant person in obtaining an abortion. Other states are following suit with Texas and enforcing stricter laws called trigger

laws. These trigger laws are bans on abortion that take place if the Supreme Court overturns *Roe v. Wade*.

A. Tried Policy

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III. NEW POLICY

As an update to Mississippi and Texas's abortion bans, Mississippi's [abortion law](#), first enacted in 2018 but was blocked and now is being heard by the United States Supreme Court, will not be heard until June of 2022. Banning abortion after 15 weeks except for medical emergencies, this law has the potential to overturn *Roe vs. Wade*. Texas's abortion law was written a bit differently, as it bans abortion after six weeks, but instead of relying the state to enforce the law, it relies on citizens, who can sue individuals who provide an abortion. The United States Supreme Court [will rule on the law](#), but the date is ambiguous.

In recent policy, in mid-April, Oklahoma governor Kevin Stitt signed Senate Bill 612 into law, which [bans abortion](#), barring cases of a medical emergency. This law will not take effect until August, but on 28 April 2022 a bill [banning abortions](#) past six weeks — with similar incentives to the Texas bill, like enabling individuals to sue others involved with providing an abortion — if passed will take effect immediately. Having multiple abortion bans limits the possibility of individuals utilizing loopholes. Similar to Mississippi's abortion law, in March, [Arizona](#) recently made abortions illegal after 15 weeks with no exceptions for rape or

incest. Doctors, if convicted of violating the law, risk having their licenses revoked and being prosecuted for a felony. The law is expected to take effect in late summer.

III. POLICY PROBLEM

A. Risks of Indifference

The ongoing restrictions on access to abortion places pressure on any abortion providers that do function in the region. A clinic called [Trust Women](#) is receiving around 135 calls a day in April. Since September, the clinic had almost double the number of patients as it did in previous months due to the Texas law that requested for in-state access to most abortions, so Trust Women had become an access point. However, in March, abortion stopped at the Trust Women clinic. This was not only seen in this clinic but also across the entire state. The Oklahoma legislature has passed one new ban and six other restrictions, driving inspiration from those in Texas. This has put immense pressure on the clinics in Oklahoma such as Trust Women. Many clinics are minimizing traffic while others are ceasing service. Many stopped scheduling appointments and are preparing for the impending prospect of abortions being banned. Many Texans and Oklahomans seeking abortions are going to Kansas, Colorado, Arkansas, and New Mexico seeking services. Although Oklahoma used to be a central access point, the new legislation has made it even more difficult to get appointments in clinics. In the senate, a resolution was passed that would allow voters to amend the state Constitution so that it does not have to protect abortion right at all. The House passed a total abortion ban as well, increasing that likelihood. With the influx of people coming from Texas after the ban, [Oklahoman access](#) has become even more critical. Abortion is technically still permitted in Oklahoma, but many clinics feels as though the bans are already active.

C. Nonpartisan Reasoning

Many states are moving in a [more conservative direction](#) because they believe that *Roe v. Wade* will not last for long. This is because the Supreme Court right now is the most conservative it has been in a long time. Many anti-abortion activists are confident that the *Roe* ruling will come to end as seen by the influx of anti-*Roe* restrictions since January. For example, in

2019 an Ohio heartbeat bill was struck down because it was deemed unconstitutional but it would likely not be challenged in the current political environment. The groundwork is being placed for an America without *Roe v. Wade*. Even with *Roe*, many state officials are currently testing the limits of the legal boundaries through laws that enforce mandatory ultrasounds or gestational limits on abortion. Some of these bills have had limited success, but most have dealt minimal damage to the *Roe* ruling as the Supreme Court stepped in to overturn the rulings. The new laws are being made in the hope that the Supreme Court reverses the *Roe* decision and their restrictions are able to take effect. Porter, who is running for Representative of Ohio's 13th Congressional District, believes that "Roe is already gone, whether they declare it or not."

IV. CONCLUSIONS

If the current trends in legislation and the Supreme Court ideology continue, it is likely that women's access to abortion will continue to be restricted. However, as we have seen in *Roe v. Wade*, the precedent that is set in Supreme Court cases can be overturned. So while the right to life may be winning the battle for the time being, we will continue to see the conflict over rights continue into the foreseeable future.

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