

Supreme Court Decision in *Dobbs v. Jackson Women's Health Organization* Overturns 50 Years of Precedent on Abortion Laws and Rights

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On June 24, 2022, the United States Supreme Court issued its opinion on [Dobbs v. Jackson Women's Health Organization](#), No. 19-1392 (2022), holding that the United States Constitution provides no basis for a right to abortion. In its opinion, the Court further states that the right to abortion is not in the text of the Constitution, not a part of this nation's fundamental history or concept of ordered liberty, that abortion restrictions are subject to rational basis review, and that the authority to regulate abortions lies with the 50 individual states. This decision, which is consistent with [the draft opinion leaked in May](#), overrules both [Roe v. Wade](#) (1973) and [Planned Parenthood v. Casey](#) (1992), which have served as precedent on abortion issues and rights for the past 50 years.

What Now

The consequences of this ruling are both immediate and long-lasting.

Thirteen States – Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, South Dakota, Tennessee, Utah, Texas, Oklahoma, and West Virginia – have “trigger laws” which make abortion illegal in these states upon the overturn of *Roe*. The timeline for these “trigger laws” to take effect varies between states.

- Some states' trigger laws went into effect immediately – South Dakota, Utah, Missouri, Oklahoma, Kentucky, Arkansas, Alabama, Louisiana.
- Other states' trigger laws will go into effect within days after the *Dobbs* ruling – Wyoming, Idaho, Texas, and Tennessee.
- And still other states' trigger laws will go into effect upon certification from the state's Attorney General or legislative counsel – North Dakota and Mississippi.

Some of these states, and others as well, also have pre-Roe abortion bans that have not been enforced since Roe was decided, but could be enforced now. For instance, the Texas Attorney General has taken the position that Texas' pre-Roe abortion ban is already effective, even before the effective date of the state's trigger law. Although many states include exemptions in their abortion laws for health or medical risk as well as cases of rape or incest, these exemptions may require the pregnant individual to report their case to law enforcement and meet other requirements before the pregnant individual can proceed with an abortion.

The Dobbs decision will also have immediate and long-lasting effects on a wide range of individuals and organizations, including:

- employers, insurers and health plans that cover or provide access to abortion services and benefits;
- healthcare providers, practitioners, and facilities who provide abortion services or provide counseling, advice and support to those seeking an abortion; and
- other individuals and organizations that facilitate the provision of abortion services.

Next Steps

As the individual states continue to respond to the Dobbs decision and finalize the laws and regulations surrounding abortion restrictions, companies or organizations that have not yet established a plan to address post-Roe abortion restrictions should consider consulting with counsel as to existing policies on reproductive services and any need to adjust such policies to remain in compliance with evolving state law.

Issues for consideration may include addressing access to reproductive health benefits and services; appropriate administration of employer-sponsored health benefit plans covering reproductive health benefits for employees; telemedicine requirements, especially those surrounding the provision of abortion counseling and the prescribing of mifepristone; health data privacy of individuals seeking abortions; and potential litigation risks for healthcare providers who may continue to provide abortion services and other reproductive health care to patients in states where abortion is, or will be, illegal.

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