

Why Vote? Reproductive and Civil Rights

Tuesday, September 13, 6:00-7:30 P.M.

Madison College's Goodman South Campus



Panelists

- Cynthia Lin, Vice President at [WMF Wisconsin](#) and Deputy Director of Movement Building at the [National Network of Abortion Funds](#)
- Katrina Morrison, Director of Policy, Advocacy & Outreach at [The Foundation for Black Women's Wellness](#)
- Nicole Safar, Executive Director of [Law Forward](#)
- Amy Williamson, Associate Director of the [UW Collaborative for Reproductive Equity](#)

Moderator

- Joy Cardin, League member and former Wisconsin Public Radio host

Discussion Questions

- What impact could the U.S. Supreme Court's *Dobbs* decision on abortion have on the lives of women in Wisconsin? Consider economic, educational, medical, and social effects.
- Does it make sense for abortion laws to vary by state?
- Should medication abortion be more widely available? (By mail? Over the counter?)
- Do you think that other rights are at risk based on the *Dobbs* decision?
- What should the League do to support reproductive justice?

The League's Position

The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices.

– [Impact on Issues: A Guide to Public Policy Positions](#), 2020-2022, League of Women Voters

The League has been an advocate for equal access to health care, specifically reproductive justice, for decades. Our position and advocacy recognize that severe inequities in access to health care and reproductive justice lead to severe inequities in education and economic opportunities, especially for women of color and lower-income women.

All people deserve access to abortion care when they need it, on a timeline of their choosing, and in a community and an environment they trust and feel safe in.

— [Abortion Access in Wisconsin](#), League of Women Voters of Wisconsin

Today’s ruling strips women and those who may become pregnant of their bodily autonomy and will have devastating — and immediate — consequences across the country. While the Court’s opinion was expected, its harm is extreme and real. When women and those who can become pregnant can no longer make reproductive decisions for their own bodies, they are no longer equal individuals in our democracy. This harm will exacerbate societal inequalities and fall disproportionately on people of color and low-income communities already facing egregious obstacles to health care.

— [Supreme Court Strips Americans of Constitutional Right to Abortion in *Dobbs v. Jackson Women’s Health Organization* Decision](#), League of Women Voters



From Roe to Dobbs

On June 24, 2022, the U.S. Supreme Court ruled that abortion is not a constitutional right. The 6-3 decision in [Dobbs v. Jackson Women’s Health Organization](#) overturned the precedent of *Roe v. Wade* (1973) and *Planned Parenthood of Southeastern Pa. v. Casey* (1992), which had previously ruled that the right to choose an abortion was based on the right to privacy conferred by the [Due Process Clause](#) of the Fourteenth Amendment.

According to the majority opinion, written by Justice Samuel Alito, “*Roe* was egregiously wrong from the start.” The right to an abortion, the majority claimed, is not conferred by [substantive due process](#) because it is not “deeply rooted in the Nation’s history and traditions.”

The Supreme Court’s opinion does not outlaw abortion in the United States. Instead, the opinion indicates that the court intends “to return the issue of abortion to the people’s elected representatives,” leaving access to abortion up to the legislative branch of the federal government and to the states.

Justices Stephen Breyer, Elena Kagan, and Sonia Sotomayor co-wrote the dissent, stating that “one result of today’s decision is certain: the curtailment of women’s rights, and their status as free and equal citizens.” The dissenting justices point to what they see as a flaw in the majority’s interpretation of substantive due process. “Those responsible for the original Constitution, including the Fourteenth Amendment, did not perceive women as equals, and did not recognize women’s rights. When the majority says that we must read our foundational charter as viewed at the time of ratification...it consigns women to second-class citizenship.”

Abortion in Wisconsin

Abortion is currently illegal in Wisconsin based on [an 1849 law](#) that makes performing an abortion a felony. This law does not provide exceptions for rape or incest, but it does include a provision to save the life of the mother. However, [physicians and medical organizations say that the law is vague](#), and it’s not

After today, young women will come of age with fewer rights than their mothers and grandmothers had.

– Dissenting opinion in *Dobbs* by Breyer, Kagan, and Sotomayor

clear when an abortion might be legal in, for example, [cases where a patient needs chemotherapy for cancer](#). These [risks are greater for Black, Hispanic, and Indigenous people](#), who have a higher rate of pregnancy complications and maternal mortality.

Wisconsin Governor Tony Evers [called for a special legislative session](#) to repeal this law, but the Republican-controlled Legislature [took no action](#), immediately ending the session. Governor Evers and Attorney General Josh Kaul then [filed suit to block the 1849 law](#).

Attorney General Kaul [has previously said](#) that his office would not investigate or prosecute anyone under the 1849 law. However, the law would generally be enforced by county district attorneys, not the state's Justice Department, so his statement has little practical effect on the way the law is applied in Wisconsin.

What Does This Mean for People in Wisconsin Who Need an Abortion?

Wisconsin residents need to travel to a state where abortion is legal, such as Illinois or Minnesota, to have an abortion. Organizations in Wisconsin, including [Planned Parenthood of Wisconsin](#), [WMF Wisconsin](#), and the [Midwest Access Coalition](#), are helping residents access abortions in other states.

However, providers in neighboring states are concerned about their ability to serve an influx of out-of-state residents. There are currently only [eight abortion clinics in Minnesota](#), and Illinois [expects an additional 30,000 out-of-state patients](#).

Medication abortion also [requires an in-person visit in Wisconsin](#), so Wisconsin residents can't be prescribed abortion pills through telemedicine or receive pills in the mail. Abortion providers in states where abortion is legal are concerned about the legal risks of providing medication to out-of-state patients who might then take the pills or need follow-up care in a state where abortion is illegal. Planned Parenthood of Montana, for example, has already [decided not to provide medication abortions to out-of-](#)



[state patients](#). ([AidAccess](#), based in Austria, provides abortion pills through the mail to people regardless of U.S. state law, but the recipient is at legal risk.)

The need to travel to other states is a special burden for people from low income or marginalized groups, who need to find transportation, take time off of work, and often arrange for child care. Poor or low-income people account for [75% of abortions](#) in the U.S., and [59% of abortions](#) are provided to people who already have children. The intersection of poverty and racism also means [that Black people are disproportionately impacted by barriers to abortion](#). Low-income people who are denied abortions face [the risk of falling deeper into poverty](#).

However, even people of means with good jobs might face challenges if they need to travel out of state for abortions. [Many companies](#) have stated that they will pay for their employees who reside in states where abortion is banned to travel to another state to receive an abortion. But privacy advocates [have raised concerns](#) about the potential consequences of revealing an abortion to an employer, including whether that information can be accessed by law enforcement.

Beyond Abortion

The *Dobbs* ruling has had ripple effects beyond abortion itself.

Other reproductive healthcare is also at risk, especially for people who suffer miscarriages or ectopic pregnancies (pregnancies where the fertilized egg implants outside of the uterus, which never come to term and put the person's life at risk). Already in Wisconsin, [some physicians have stopped prescribing mifepristone](#) to help people complete early miscarriages because the medication can also be used for a medication abortion, and [providers are uncertain about](#) whether treating an ectopic pregnancy or performing a D&C for an incomplete miscarriage could put them at legal risk. Providers might also [be suspicious of people who miscarry](#), especially if they admit to a past abortion. Again, [these risks are higher for Black, Hispanic, and Indigenous people](#), who have higher rates of pregnancy complications and are more likely to be arrested when something goes wrong with their pregnancies.



Pregnant people in abusive relationships are also [more likely to stay with an abusive partner](#) if they are unable to have an abortion. [Homicide is the leading cause of death](#) of pregnant people.

People have also expressed [concerns about digital privacy](#). The [White House has advised](#) that people should be careful about using period tracking apps, which could indicate whether they had an abortion or miscarriage. There are also worries about whether a person's internet search history could show that they sought an abortion, or whether the geolocation data from a person's phone could be used to track them to a clinic that provides abortions.

Concerns about access to abortion and reproductive healthcare in general also affects [the right of people who might become pregnant to participate fully in the country's educational and economic benefits](#). People have to weigh the opportunities of an excellent job offer or a college scholarship in a state that bans abortion against the risk that they might not be able to receive reproductive healthcare when they need it, even at risk of their lives.

The Court's precedents about bodily autonomy, sexual and familial relations, and procreation are all interwoven—all part of the fabric of our constitutional law, and because that is so, of our lives. Especially women's lives, where they safeguard a right to self-determination.

– Dissenting opinion in *Dobbs* by Breyer, Kagan, and Sotomayor

The foundation of the *Dobbs* decision has also caused [concern that other Supreme Court decisions based on substantive due process](#) could be overturned in the future, including *Griswold* (right to contraception for married people), *Eisenstadt* (right to contraception for unmarried people), *Lawrence* (right to same-sex intimacy), *Obergefell* (right to same-sex marriage), *Loving* (right to interracial marriage), and *Skinner* (right not to be sterilized).

While the Supreme Court's majority decision in the *Dobbs* case goes out of its way to say that this decision has no impact on other cases, on account of abortion's unique effects on "potential life," [Justice Clarence Thomas's concurring option explicitly stated](#) that he wants to reconsider the other cases. The dissent from Justices

Breyer, Kagan, and Sotomayor calls out this future possibility.

What Can I Do Now?

Educate yourself about candidates' positions on reproductive rights, and vote. The Supreme Court's majority opinion says that their decision "allows women on both sides of the abortion issue to seek to affect the legislative process by influencing public opinion, lobbying legislators, voting, and running for office. Women are not without electoral or political power." (Note: Men, who are also affected by reproductive rights, are not without electoral or political power, too.) As a result, the ballot box is the best option for influencing laws regarding reproductive rights.

You can also support and volunteer for organizations that provide reproductive services, such as [Planned Parenthood of Wisconsin](#), [WMF Wisconsin](#), [Midwest Access Coalition](#), and [The Foundation for Black Women's Wellness](#).

It is expected that volunteers who can help with transport to abortion providers in other states will especially be needed.

Contact your federal, state, and local representatives and let them know about what reproductive rights mean to you.

Further Research

History

- Throughline podcast, NPR
 - [Before Roe: The Physicians' Crusade](#), May 19, 2022
 - [After Roe: A New Battlefield](#), June 16, 2022
- [In abortion debate, echoes of another battle: Reproductive rights for Black women](#), Washington Post, June 10, 2022 (behind paywall)
- [When abortion was illegal, Chicago women turned to the Jane Collective](#), Smithsonian Magazine, June 14, 2022

Access

- [Tribes show little interest in offering abortions on reservations despite speculation they could](#), Kaiser Health News, June 23, 2022
- [North Dakota's only abortion clinic is preparing to move across state lines to Minnesota](#), CNN, June 25, 2022
- [The abortions we didn't have](#), Washington Post, June 25, 2022 (behind paywall)
- [The Pink House at the center of the world](#), This American Life podcast, July 1, 2022
- ['We don't actually have much data privacy and that can be a problem': UW data expert on keeping info private after Roe reversal](#), Channel3000, July 12, 2022
- [A pregnancy, a phone call, a canceled appointment: A Wisconsin woman's abortion journey after Roe's overturn](#), Channel3000, July 13, 2022
- [Wisconsin doctor buys Illinois buildings to offer abortions](#), AP News, July 13, 2022
- [A rape, an abortion, and a one-source story: a child's ordeal becomes national news](#), NPR, July 13, 2022
- [3 common myths about the abortion debate that many people get wrong](#), NPR, July 22, 2022
- [Nebraska teen and mother facing charges in abortion-related case that involved obtaining their Facebook messages](#), CNN, August 10, 2022

- [Abortion is legal in Illinois. In Wisconsin, it's nearly banned. So clinics teamed up](#), NPR, August 11, 2022

Healthcare

- [‘A scary time’: Fear of prosecution forces doctors to choose between protecting themselves or their patients](#), STAT News, July 5, 2022
- [Roe’s overturn threatens all reproductive care](#), At Liberty podcast, ACLU, July 14, 2022
- [Infertility patients fear abortion bans could affect access to IVF treatment](#), NPR, July 21, 2022
- [Some people in the US are rushing to get sterilized after the Roe v. Wade ruling](#), CNN, July 25, 2022
- [Because of Texas abortion law, her wanted pregnancy became a medical nightmare](#), NPR, July 26, 2022
- [‘Emotional turmoil’: Wisconsin mother shares her struggle in getting care for her miscarriage](#), Wisconsin Public Radio, July 28, 2022
- [Risk of serious pregnancy complications has doubled since Texas abortion bans, study finds](#), Houston Chronicle, July 26, 2022 (behind paywall)
- [Patients and doctors trapped in a gray zone when abortion laws and emergency care mandate conflict](#), KHN, August 8, 2022

International

- [El Salvador's abortion ban: 'I was sent to prison for suffering a miscarriage'](#), BBC News, June 28, 2022
- [Fears for US woman's life as abortion denied in Malta](#), BBC News, June 22, 2022

These Resource Materials were prepared by Amanda Hingst and Sue Jennik.