

THE POST-ROE LANDSCAPE:

An Examination of Existing Laws

What happens if the Supreme Court reverses *Roe v. Wade*?

With ongoing court action surrounding a Texas law protecting unborn children once a fetal heartbeat can be detected, and this summer's anticipated decision by the U.S. Supreme Court in *Dobbs v. Jackson Women's Health Organization* about Mississippi's Gestational Age Act protecting unborn children after 15 weeks, there is much speculation in the press and among pro-abortion groups about the future of *Roe v. Wade* and the post-*Roe* landscape in the nation.

While it is difficult to predict what the Court will do in the *Dobbs* case, media outlets continue to opine about *Roe*'s downfall. Adding to this national conversation are numerous public opinion polls that purport to find that a majority of Americans oppose the Supreme Court overturning *Roe v. Wade*. These polls have helped pro-abortion organizations continue unabated with their decades-long public relations campaign that *Roe v. Wade* is somehow sacrosanct.

However, according to a poll conducted for Reuters/Ipsos December 13-17, 2021 (n=,4047 with a margin of error of +/- 2.5%), more than two-thirds of Americans don't realize what would happen if *Roe* were overturned.

Respondents were asked, "To the best of your knowledge, which of the following would happen if the Supreme Court overturned *Roe v. Wade*?"

Sixteen percent believed "abortion would become illegal in the United States immediately;" 28% believed "abortions would become mostly illegal." Twenty-four percent didn't know or didn't respond. Just 32% accurately said "laws governing abortion would be made at the state level, allowing for it to remain legal in some stages and become illegal in others."

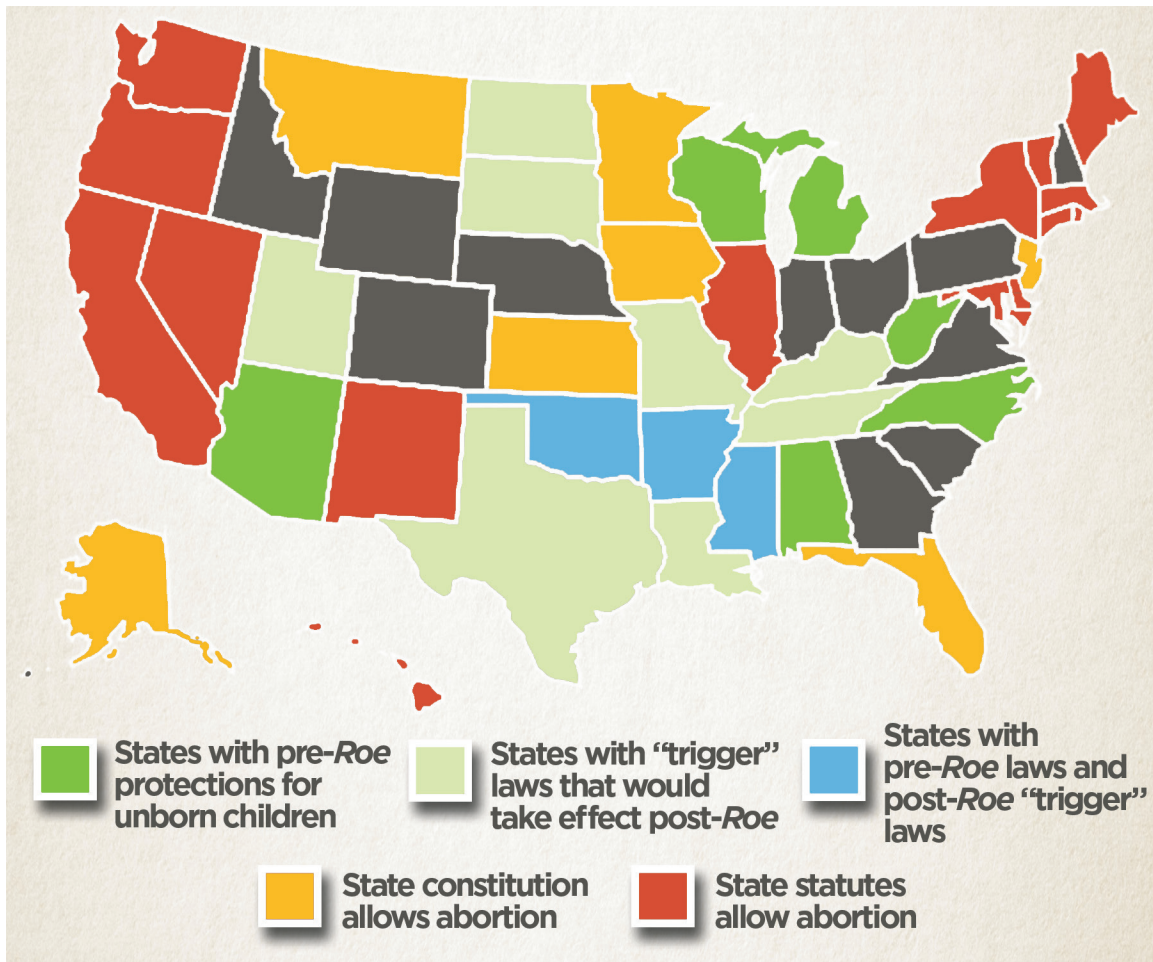
While most pro-abortion organizations adopt a "sky is falling" stance claiming that if *Roe* were overturned by the Court, abortion would be illegal in a majority of the country, the reality is actually more complicated.

Some states have laws protecting unborn children that predate *Roe v. Wade*; other states have taken steps to pass "trigger laws" that would become effective to protect unborn children in the event of *Roe*'s reversal. A plurality of states, either by state court decision or legislative action, would allow abortion on demand within their borders.

The map on the back of this page details the possible landscape in the United States in a post-*Roe* society. While there are protective pro-life laws in many states that would be in effect (or go into effect) if *Roe* were reversed, far too many states would become abortion "safe havens," continuing to put mothers and their children at risk by allowing unrestricted abortion on demand.



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A total of 17 states would protect unborn children immediately in a post-*Roe* landscape through either existing pre-*Roe* laws, "trigger" laws that would take effect following *Roe*'s reversal, or both: Alabama, Arizona, Arkansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wisconsin.

Twenty-one states would allow abortion either through legislatively-enacted statute or court ruling interpreting the state constitution to convey the right to abortion: Alaska, California, Connecticut, Delaware, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, New York, Nevada, Oregon, Rhode Island, Vermont, and Washington.

Colorado has neither laws explicitly protecting unborn children nor laws explicitly allowing abortion.

Some pro-life laws currently exist in Idaho, Indiana, Nebraska, New Hampshire, Ohio, Pennsylvania, Virginia, and Wyoming that may possibly provide some immediate protection for unborn children and their mothers, but have no explicit prohibitions of abortion. Georgia currently has an enjoined law that protects unborn children once the fetal heartbeat has been detected. Georgia leadership could seek to remove the injunction on the law post-*Roe*. Idaho and South Carolina have similar heartbeat laws with a "trigger" mechanism.

Kansas and Kentucky are currently advancing ballot initiatives that would insert language which excludes abortion into their respective constitutions. Michigan is currently advancing a ballot initiative to enshrine abortion in the state constitution.