

Why Defending Roe is the Mainstream Position



Lanae Erickson

Senior Vice President for the Social Policy & Politics Program

[@LanaeErickson](#)



Nathan Kasai

Senior Policy Counsel

[@Nathan_Kasai](#)

Across the nation, states are passing laws either severely restricting or outright banning abortion, in some cases without even the most basic exceptions for rape or incest. These laws are clear challenges to *Roe v. Wade*, raising alarm the landmark ruling could be overruled. Since 1973, this case has been the keystone protection for a woman’s right to access abortion and make other important decisions about her health. And while most Americans view it as settled law, the Supreme Court could act to undo the Constitutional protections outlined in *Roe*.

Let’s be clear about a few things. *Roe v. Wade* is an absolutely critical protection for millions of Americans, and wanting to preserve the Constitutional rights outlined in it is a mainstream, moderate position. It’s those who hope to overturn this decades-old precedent that are out of step with the country.

Americans across the political spectrum support *Roe v. Wade*

While many Americans may have conflicted beliefs on the morality of abortion, their views on its legality are clear.

Polling consistently shows that nearly 7 in 10 Americans believe *Roe v. Wade* should not be overturned. That also includes 66% of Independent voters and 69% of women of reproductive age. In the eyes of the overwhelming majority of Americans, *Roe* is established law that should stay on the books.

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When asked specifically if abortion should be legal, the majority of Americans are also clear in their beliefs. In fact, 6 in 10 agree that abortion should be legal in all or most cases. Even more explicitly, 81% of voters and 84% of moderates say they trust an individual to make the right decision when it comes to abortion, and don't want more government rules on the issue. No matter how you ask it, Americans are resoundingly certain they want less government interference in a person's decision to access abortion services, not more.

Overturing *Roe v. Wade* would be an extreme move by the Court

Either overturning *Roe* or significantly undercutting it without technically overturning it would be an abrupt and extreme action by the Court, eliminating a major foundation of 45 years of law on the books. Avoiding such legal jolts and uncertainty is why the Court is supposed to adhere to the doctrine of *stare decisis*, or deference to its prior decisions. As the late Justice Antonin Scalia once explained, *stare decisis* “fosters stability in the law.” This stability is critical for Americans to have faith in our legal system, creating confidence in our institutions and reassurance in our liberty.

Roe's demise would shatter that stability, and it would not take long for us to feel the effects. Nine states—Arkansas, Georgia, Iowa, Kentucky, Louisiana, Missouri, Mississippi, North Dakota, and Ohio—have already signed “fetal

heartbeat” abortion bans into law, prohibiting abortions as early as six (prior to when many women know they are pregnant in the first place). And even more extreme, Alabama enacted a law completely banning abortion, even in cases of rape or incest. These laws blatantly violate *Roe* and are thus rightly blocked or likely to be blocked by court orders. If *Roe* is overturned, the justification for those judicial blocks will disappear, meaning these states would immediately make abortion practically impossible without having to debate or vote on any further legislation.

Even more broadly, 21 states ban abortion after 20 weeks, even though 98.7% of abortions occur before that marker, and later term abortions are normally only used in cases of rare and fatal birth defects that cannot be detected earlier. These bans also have been blocked across the country as violating *Roe*. But an America without *Roe* would immediately allow those states to needlessly force women to carry fetuses that will never survive outside the womb to full term.

Conclusion

Roe is a crucial protection of Constitutional rights, and voters across the country want to preserve it. Overturning this landmark decision would be calamitous for the nation, and as this debate continues, every policymaker who wants to stand on the side of mainstream American values should be shouting into a megaphone to protect it.

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