

THE OVERTURN OF ROE VS WADE:

A fact sheet

What is Roe v Wade?

In 1973, the US Supreme Court issued a 7–2 decision holding that the Due Process Clause of the Fourteenth Amendment to the United States Constitution provides a fundamental “right to privacy”, which protects a pregnant woman’s right to an abortion. The decision struck down many federal and state abortion laws, and created the “trimester” system allowing an absolute right to an abortion in the first trimester of pregnancy, some government regulation in the second trimester, and allowing states to restrict or ban abortions in the final trimester.

Why was it overturned?

In 2020, the State of Mississippi asked the Court to hear a case on their 2018 Gestational Age Act, following a challenge by an abortion provider. This law had banned abortions after 15 weeks, with some exceptions. On June 24, 2022, the Supreme Court ruled 6–3 to uphold Mississippi’s Act, and 5–4 to overrule Roe and Casey (a later ruling upholding Roe). The court said: “The Constitution does not confer a right to abortion; Roe and Casey are overruled; and the authority to regulate abortion is returned to the people and their elected representatives.”

What does this mean?

A constitutional right to abortion is no longer recognised, and individual US states can now set their own laws.

Is abortion banned in the US now?

No. Individual states can set their own laws. Some states have banned or severely restricted abortion, but others allow it up to birth.

Will the decision stop women receiving treatment for miscarriage or ectopic pregnancy?

No. No abortion law in any US state prevents life-saving treatment for women with ectopic pregnancies and other life-threatening conditions.

Obstetrician Dr Christina Francis explains that “treating ectopic pregnancies or miscarriages or other life-threatening conditions in pregnancy is not the same thing as an abortion.”



“Chemical abortions, which are being heavily promoted by the abortion industry and its allies, cannot treat an ectopic pregnancy according to the FDA.¹ The treatments for ectopic pregnancy are not the same procedures used by induced abortions.”²



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The official website of Planned Parenthood (the main abortion provider in the US) agrees that treatment for ectopic pregnancies “isn’t the same thing as getting an abortion”.³

Will women be jailed for miscarriages/ abortions?

Much misinformation has been circulating suggesting that women will be jailed for having abortions, or even be subject to criminal investigation for natural miscarriages. No major pro-life organisation advocates jailing women for abortions. The goal of laws limiting or banning abortion is to protect innocent children from abortion violence, which means that abortionists would be penalised for abortions.

There is no documented case in America of a woman being prosecuted for seeking an abortion since 1922. All modern abortion laws immunize the woman seeking abortion from liability.⁴

Miscarriages, where a baby tragically dies in a woman’s womb, are not illegal. Any treatment needed after a natural miscarriage is not an abortion, and no one advocates criminalising women for miscarriage.

Will women be without support in a post-Roe America?

Women do not need abortion, and the US pro-life movement has worked very hard to support mothers and families in need. There are more than 3,000 pregnancy centres and 400 maternity homes in the US. States that are passing pro-life laws are also focusing on supporting women. For example, Texas has expanded their Alternatives to Abortion Program by \$20 million. Abortion does not empower women, authentic support does.

What is the situation in the UK?

Abortion in Britain is regulated by the 1967 Abortion Act. This states that no prosecution for abortion will take place if certain criteria are met, and it is signed off by two doctors. 98% of the 214,256 abortions performed in England and Wales in 2021 were on the basis that the abortion would be less of a risk for the mother’s mental or physical health than having a baby (Ground C). The vast majority (99.9%) of these were performed under mental health grounds, with “mental disorder, not otherwise specified” ticked. So, practically all abortions are carried out under unspecified, undiagnosed mental health grounds. In practise, abortion is available on demand.

3,370 abortions were performed under Ground E, which allows abortion up to birth in cases of disability.

87% of total abortions in 2021 were “medical” abortions (using drugs rather than surgery). Under regulations originally brought in for COVID, both stages of a medical abortion can now be sent to a woman’s home by post, without her seeing a medical professional in person. Such “home” or “DIY” abortions accounted for 52% of all abortions that year.⁵

Abortion law is devolved to the Scottish Parliament, but there are so far no major deviations from UK law.

What implications does Roe v Wade have for the UK?

In the UK, we are working in a very different legal and cultural context. Roe vs Wade was a court case, while abortion law in the UK was decided by a parliamentary vote in 1967. To ensure legal protection for the unborn here, we need the support of a majority of MPs. This will happen through changing the hearts and minds of their constituents – our fellow citizens. But we will take inspiration from the repeal of Roe vs Wade, which will undoubtedly save millions of lives, and shows that change is possible.

1. <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifeprex>
2. <https://lozierinstitute.org/fact-check-dobbs-will-not-impact-life-saving-medical-care-for-high-risk-or-ectopic-pregnancies/>
3. <https://www.plannedparenthood.org/learn/pregnancy/ectopic-pregnancy#>
4. <https://www.economist.com/by-invitation/2022/06/22/abortion-would-be-best-governed-by-legislatures-says-o-carter-snead>
5. All abortion statistics are from National statistics, *Abortion statistics, England and Wales: 2021*, Published 21 June 2022, <https://www.gov.uk/government/statistics/abortion-statistics-for-england-and-wales-2021/abortion-statistics-england-and-wales-2021>