



FESIA A. DAVENPORT
Chief Executive Officer

County of Los Angeles Health and Mental Health Services

DATE: Wednesday, January 5, 2022
TIME: 10:30 a.m.

THIS MEETING WILL CONTINUE TO BE CONDUCTED VIRTUALLY TO ENSURE THE SAFETY OF MEMBERS OF THE PUBLIC AND EMPLOYEES AS PERMITTED UNDER STATE LAW.

TO PARTICIPATE IN THE MEETING, PLEASE CALL AS FOLLOWS:

DIAL-IN NUMBER: 1 (323) 776-6996

CONFERENCE ID: 322130288#

[MS Teams link](#) (Ctrl+Click to Follow Link)

AGENDA

Members of the Public may address the Health and Mental Health Services Meeting on any agenda item. Two (2) minutes are allowed for each item.

THIS TELECONFERENCE WILL BE MUTED FOR ALL CALLERS. PLEASE DIAL *6 TO UNMUTE YOUR PHONE WHEN IT IS YOUR TIME TO SPEAK.

- I. Call to order
- II. **Discussion Item(s):**
 - a. Reproductive Health Care Update
County Counsel
DHS
DPH
Planned Parenthood
- III. Items Continued from a Previous Meeting of the Board of Supervisors or from the Previous Agenda Review Meeting
- IV. Items not on the posted agenda for matters requiring immediate action because of an emergency situation, or where the need to take immediate action came to the attention of the Department subsequent to the posting of the agenda
- V. Public Comment

VI. Adjournment

Reproductive Health Care Update

Abortion Rights: Legal and Policy Issues

The U.S. Supreme Court's *Dobbs* decision and
Potential Impacts on Los Angeles County

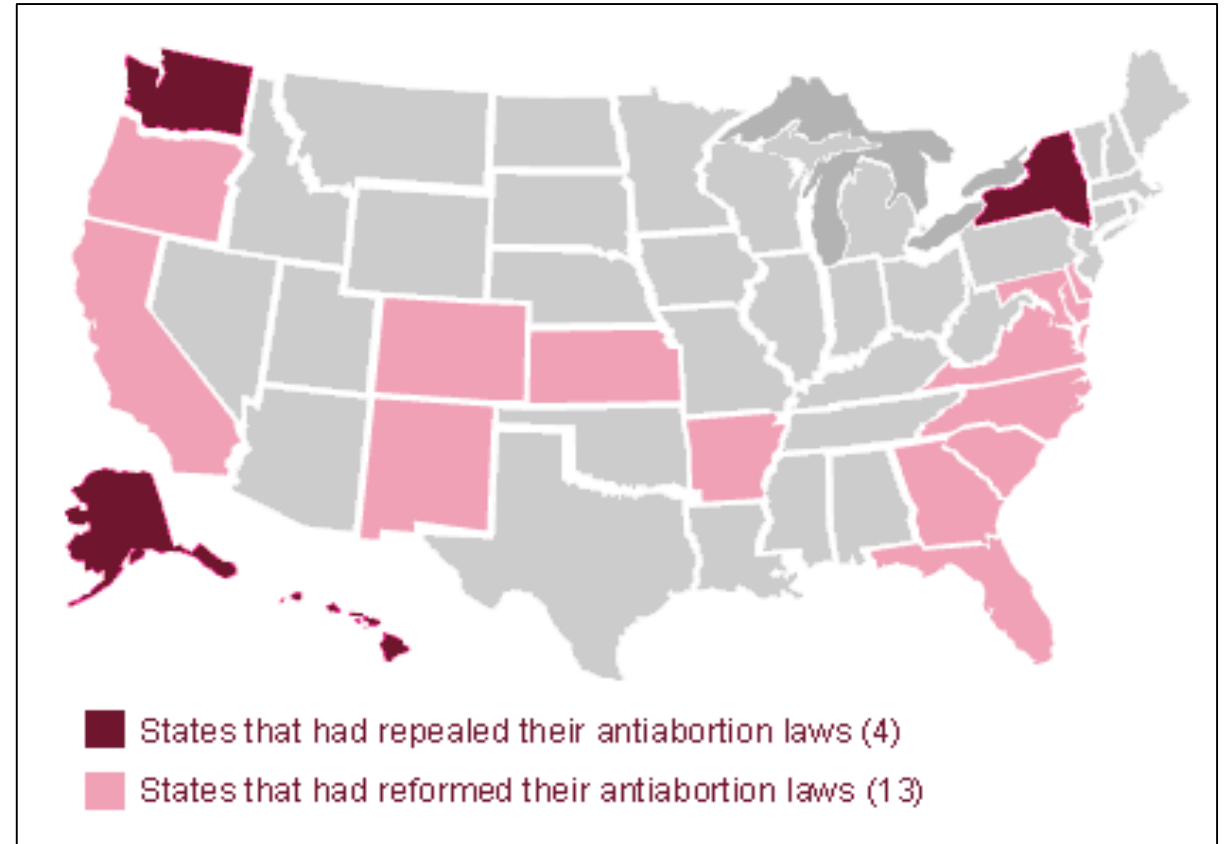
Los Angeles County Counsel
January 5, 2022

Before *Roe v. Wade* (1973): A Patchwork of State Laws

■ 33 states had strict abortion bans. Only three had exceptions for rape/incest or to save life of mother.

■ 13 states had recently enacted reform laws – allowing abortion if:

- a danger to woman's life, or to physical or mental health,
- fetus would be born with a severe physical or mental defect, or
- rape or incest.



Source: Guttmacher Institute

■ Four states – New York, Washington, Alaska, and Hawaii – allowed abortion with minimal restrictions. **All except New York imposed state residency requirements.**



California Therapeutic Abortion Act (1967)

A modified “reform” law that allowed abortion if:

(a) the pregnancy would gravely impair the physical or mental health of the mother, or

(b) the pregnancy resulted from rape or incest.

Did not permit abortion where risk of fetus having physical or mental defect.

***People v. Belous* (1969)**

The California Supreme Court

Under both California and United States Constitutions, women have a fundamental right to choose whether to bear children.

Court: “It is safer for a woman to have a hospital therapeutic abortion during the first trimester than to bear a child.”

The effect: *de facto* legalization of abortion in California.

**A growing view
that anti-abortion
laws were not only
ineffective, but
dangerous**

Before *Roe*: 20 percent of
U.S. abortions take place in
unregulated clinics or so-
called “back alleys.”



The Washington Post, in 1966, ran a four-part investigation on the risks of illegal abortions: *“Humiliation, agony, and the risk of sterility or death do not deter American women from ending an average of one out of every five pregnancies by abortion.”*

L.A. County-U.S.C. Medical Center

In 1966, the rate of patients who were admitted to ER for septic non-hospital abortions:

One septic patient for every 14 live births.

ABORTION PATIENTS AT LOS ANGELES COUNTY/ UNIVERSITY OF SOUTHERN CALIFORNIA MEDICAL CENTER, 1966-1970

<u>Year</u>	<u>Admissions for Non-Hospital Induced Septic Abortions</u>	<u>Abortions Induced at LAC/USC Medical Center</u>
1966	646	2
1967	638	7
1968	701	127
1969	559	585
1970	305	3,469

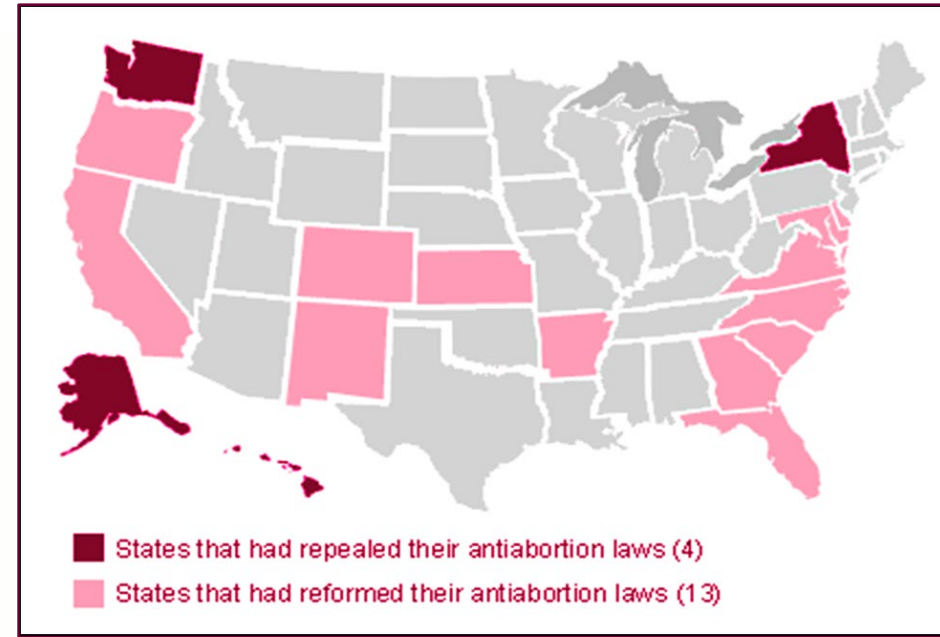
Table 18, *Abortion Surveillance Report--Legal Abortions, United States, Annual Summary*, 1970; Public Health Service, Atlanta, Ga. CDC, at pp. 31 -32.

Admissions to the hospital for treatment of septic, non-hospital induced abortions declined from an average of 662 per year for the period 1966-1968 to 559 in 1969, and 305 in 1970. The septic abortion ratio during this 5-year time span fell from 72 septic abortion admissions per 1,000 live births in 1966 to 31 septic abortion admissions per 1,000 live births in 1970.

**By 1971, New York
became a haven for
women seeking
legal abortions.**

Total abortions in NY: 452,607
Non-resident abortions: 257,857
- by percentage: 57%

Example: 92 percent of Texas residents who
obtained abortions got them in New York.



Ted Joyce, Ruoding Tan, and Yuxiu Zhang, *Abortion Before & After Roe*, J Health Econ. 2013 Sep; 32(5): 804–815. Published online at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3791164/>

U.S. Supreme Court, *Roe v. Wade* (1973):



The Burger Court

- Due Process Clause to the U.S. Constitution provides a "**right to privacy**" protecting a woman's right to choose whether or not to have an abortion.
- Restrictions ***before fetal viability*** – around 24 weeks – are subject to “strict scrutiny,” a high legal burden.
- ***After fetal viability***, a state's interest in protecting prenatal life is so compelling it may prohibit all abortions except where necessary to protect the mother's life or health.

U.S. Supreme Court, *Casey v. Planned Parenthood* (1992):



The Rehnquist Court

- Reaffirmed right to abortion in *Roe*; states **may not ban abortion** before fetal viability (around 24 weeks)
- Court scrapped “strict scrutiny” rule and adopted a new standard for **state regulations *before* viability**:
 - “**undue burden**” test: substantial obstacle in path of women.
- Court upheld:
 - Informed consent and 24-hour waiting period.
 - Consent by minor’s parent.
- Court struck down husband notification requirement.

Mississippi's only abortion clinic sues state over new 15-week ban



by **Larrison Campbell**

March 19, 2018

Less than an hour after Mississippi's governor signed the nation's strictest abortion ban into law, the state's only abortion clinic asked the courts to block it, arguing that the new law is unconstitutional.



Gov. Phil Bryant signs into law a ban on abortions

Dobbs v. Jackson Women's Health Clinic:



- Mississippi law bans abortion after **15 weeks** of fetal gestation
- Fetal viability is around 24 weeks.
- **Direct challenge to *Roe v. Wade*** and right to abortion before fetal viability.
- No exceptions for rape or incest.

December 1, 2021 – Supreme Court hears arguments in *Dobbs*

Question Presented:

Whether all pre-viability prohibitions on elective abortions are unconstitutional

Mississippi's arguments:

- **No Constitutional right to abortion;** *Roe* and *Casey* wrongly decided.
- **Viability line is unworkable.** State's interest in protecting fetus is compelling both before and after fetal viability.
- ***Roe* is outdated.** Laws adopted after *Roe* allow women to pursue both career and family goals:
 - pregnancy discrimination;
 - leave-time requirements;
 - child-care assistance;
 - contraception widely available.



Abortion clinic's arguments:

- **Viability is central principle in *Roe* and *Casey*.** No basis for overruling viability line.
- **Viability line balances** woman's liberty and state interests in fetal life.
- **Under *stare decisis*, Court must uphold *Roe*,** if no factual or legal basis to overrule it.
- **"Gender equality lags behind the ideal Mississippi imagines.** Pregnancy and caregiver discrimination persist."
- Contraceptives not available to all and not fail-safe.

***Amicus Curiae* briefs warn of harms to women if *Roe* is overturned**

The American College of Obstetricians and Gynecologists

- **15-week ban has no grounding in scientific evidence.**
- **Physical and psychological harm to women.**
- **Women would travel outside the state, delaying care and increasing health risks.**
- **Risk of self-induced abortions.**
- **Forces women into risk of childbirth:** “Risk of death associated with childbirth is 14 times higher than any risk of death from an abortion.”

National Women’s Law Center

- **Infringes on personal autonomy and bodily integrity.**
- **“Decimates the ability of women pursue their personal and professional goals, to safeguard their economic security, and to stand as equal members of society.”**

No. 19-1392

IN THE Supreme Court of the United States

THOMAS E. DOBBS, M.D., M.P.H., in his Official
Capacity as State Health Officer of the Mississippi
Department of Health, et al.,
Petitioners,

v.

JACKSON WOMEN’S HEALTH ORGANIZATION, on Behalf
of Itself and Its Patients, et al.,
Respondents.

On Writ of Certiorari to the United States Court of
Appeals for the Fifth Circuit

BRIEF OF LOCAL GOVERNMENTS AS AMICI CURIAE IN SUPPORT OF RESPONDENTS

Local Governments

Twenty-nine city and county governments –
including Los Angeles County – warn that
overturning *Roe* would:

- **exacerbate discrimination;**
- **deepen health disparities along racial
and socioeconomic lines.**

Three potential outcomes in *Dobbs v. Jackson Women's Health Clinic*



Supreme Court overturns *Roe*; allows states to ban abortion before fetal viability.

- **12 states** have “trigger” laws that automatically ban abortion after 12 weeks if *Roe* is overturned.
- **5 states** have existing pre-*Roe* bans that would take effect.
- **9 states** have expressed intent to ban abortion if *Roe* is overturned

Thus, **at least 26 states** are likely to ban abortion.

Supreme Court redefines *Casey*’s “undue burden” standard.

Finds that 15-week timeframe still permits access to abortion and therefore ban before viability is not an “undue burden” on women.

Mississippi’s alternative argument.

Justice Roberts contends viability standard is not core holding in *Roe*.

Other justices did not address it during oral argument.

Supreme Court upholds *Roe* and *Casey*; does not permit states to ban abortion before fetal viability.

Maintains status quo.

States may continue to impose restrictions on abortion access that do not unduly burden women but cannot impose outright bans before fetal viability.

U.S. Supreme Court, *Whole Woman's Health vs. Jackson* (2021):



The Roberts Court

- “Texas Heartbeat Act” - Bans all abortions after six weeks of pregnancy. Allows only private lawsuits as enforcement.
- On December 10, Court refused to block Texas law – but did not reach the merits.
- Court decided only **procedural questions** – *who* the clinic can sue, and *where*.
- ***Dobbs* will be decided first.**
- Fifth Circuit will hear arguments re Texas law case in January 2022.

If *Roe* is overturned:



California unveils plans to be abortion sanctuary if *Roe v. Wade* is overturned

SACRAMENTO, Calif. - California state legislators on Wednesday revealed a plan to make the state a "sanctuary" for those seeking reproductive care, including possibly paying for travel, lodging and procedures for people from other states.

California would become a “sanctuary” state for women seeking access to abortion

- **SB 1301 – Reproductive Privacy Act (2002):** "The state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus . . ." Codifies the California Supreme Court's holding in *People v. Belous* (1969).
- **Sanctuary:** Gov. Gavin Newsom and state legislators have announced that they intend California to be a destination for out-of-state women seeking access to abortion.
- **Subsidies to out-of-state residents:** Proposal includes possibly paying for abortion services, travel, and lodging.
- **Arizona** – a neighbor state – has a pre-*Roe* total ban on its books. That law could be enforced if *Roe* is overturned.
 - > 13,000 women annually obtain abortions in Arizona.
 - This Arizona population– and perhaps thousands of women from other states – may travel to California for abortion services if states enforce anti-abortion bans.

Abortion services in Los Angeles County

- Los Angeles County operates three public hospitals that provide critical women's health and family planning services, including contraceptives and abortions.

- Physicians at the hospitals perform abortions in both the first and second trimesters, including medication and surgical abortions.

- Last year, more than 450 women obtained abortions at the County's hospitals.

- Recipients of abortions – all Medi-Cal recipients – are overwhelmingly women of color and/or poor. 17% are African-American, and 58% are Latinas.



The influx of women from other states to California may impact Los Angeles County in several ways:

- **Reproductive services:** Increase in demand for contraceptives and abortion services at public and private hospitals and clinics.

- **Increased morbidity:** Delayed care, greater health risks.

- **Health care subsidies:** Raises policy issues as to whether no-cost health services should be extended to non-residents.

- **Fiscal pressures:** Influx of out-of-state patients may impact the County budget for other social services.

- **Racial/Socioeconomic disparities:** Potential impact on County programs that aim to eliminate health care disparities among women of color and poor women.