

ACLU Wisconsin: Responds to leaked SCOTUS opinion that would overrule Roe

Posted on Wednesday, May 4, 2022

>> **WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)**

MILWAUKEE — The ACLU of Wisconsin responded to [reporting](#) of a leaked draft opinion of the Dobbs v. Jackson Women’s Health case from the Supreme Court overturning Roe v. Wade, previewing what it could mean for the people of Wisconsin.

“Last night’s leak confirms our deepest fears that the Supreme Court is considering reversing the landmark case of Roe v. Wade. A decision to overturn Roe would mark a shift in fundamental constitutional rights as significant as any opinion the Court has ever issued, imposing harm nationwide, ” said ACLU of Wisconsin Executive Director Melinda Brennan.

“Overturning Roe v. Wade would be an unprecedented action, depriving millions of people in this country access to essential health care. Twenty-six states, including Wisconsin, stand poised to ban abortion if the Court reverses Roe. Never before has the Supreme Court deprived half the country of a constitutional right,” Brennan said.

Wisconsin’s pre-Roe ban on abortion (Wis. Stat. 940.04) is unconstitutional and unenforceable under Roe v. Wade, which held that states could not prohibit abortions before a fetus is “viable.”

Although there are strong arguments that Wisconsin’s pre-Roe ban is not enforceable, with physicians facing the risk of criminal prosecution, abortion could become unavailable to patients in Wisconsin, as it has in other states.

Even if the Court ultimately issues a narrower ruling, allowing Mississippi's 15-week ban but not reaching the question of whether other bans, like Wisconsin's, would be enforceable, health care providers in Wisconsin would remain vulnerable to prosecution for providing their patients with essential health care.

"The days of relying on the US Supreme Court to protect the right to abortion are clearly numbered. We're in the midst of a cycle of attacks against our freedoms, from challenges to abortion to attacks on transgender and gay rights, and censorships in schools," Brennan said.

"Advocates for reproductive freedom must remain activated, build power at the state level and the court of public opinion. We must make our voices heard, exercise our right to organize and vote, support providers, and do what we can to support those seeking to exercise the right to abortion."

This case highlights why it remains vital to stay engaged, vote in elections, and support nonprofit organizations like [Planned Parenthood of Wisconsin](#), [Women's Medical Fund](#), [Keep Our Clinics](#), [Options Fund](#), and [Affiliated Medical Services](#), which work tirelessly to protect the freedom of people to choose when to have a child. This moment provides even more clarity as to why the right to vote and community activation matters in the near future, including in August, November, and April.

A rally and march for abortion rights is planned from 4 to 6 p.m. Wednesday at Red Arrow Park in Milwaukee and the ACLU of Wisconsin will be there with legal observers.

A copy of this press release is available online:

<https://www.aclu-wi.org/en/press-releases/aclu-wisconsin-responds-leaked-scotus--opinion-would-overrule-roe>