

# WisDems: ICYMI: Advocates warn that “Criminalized abortion will lead to cops investigating miscarriages”

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**MADISON, Wis.** - While Republican politicians continue to push a [dangerous](#) and [unpopular](#) anti-abortion agenda, [advocates and legal experts](#) caution that the end of legal abortion in Wisconsin could lead to police officers investigating miscarriages and interrogating grieving parents.

**Wisconsin Examiner: [Criminalized Abortion Will Lead to Cops Investigating Miscarriages, Advocates Say](#)**

“The end of legal abortion in Wisconsin could lead to law enforcement officers investigating miscarriages, advocates and legal experts say.

“The [end](#) of the constitutional right to an abortion in Wisconsin comes with the likely reinstatement of the state’s 173-year-old [criminal abortion ban](#). The ban only allows for criminal charges to be brought against the person who performs the abortion, not the mother, and does have an exception if the mother’s life is at stake. But that won’t keep cops from interrogating a grieving and traumatized mother if for any reason it’s suspected that a miscarriage was intentional.

“[State law](#) requires that medical professionals report any death they believe to be from homicide or abortion to local law enforcement. So, if a woman miscarries and requires medical attention, a suspicious doctor may report her to the local sheriff’s office or police chief.

“Sarah Yacoub, a former Democratic candidate for the Wisconsin Assembly and attorney who works with victims of sexual and domestic violence, says possible

criminal investigations of miscarriage are a horrifying effect of the U.S. Supreme Court's decision to overturn *Roe v. Wade*.

“People sincerely believe there are no implications for miscarriage or criminalizing miscarriage or ways this can be weaponized by abusers,’ she says. ‘That’s something that’s very real to me from what I see at work.’

“What stands out to me is how not widely understood or known the implication for miscarriage is,’ she continues. ‘If we consider a person to be legally a person at conception, that has real legal implications, that means we have to have a death investigation and investigator for every death. As someone who has experienced miscarriage and the trauma it brings, the idea of explaining myself is horrifying, likewise for my clients.’

[...]

“In some cases, police won’t need to be called because they’re already on duty at the hospital. Ji Seon Song, a law professor at the University of California-Irvine who studies law enforcement presence in emergency rooms, says the passive information sharing that happens at hospitals in which cops are playing a dual role as both criminal investigator and first responder to emergencies, can be dangerous in instances like this.

“At certain kinds of hospitals, certain kinds of emergency rooms, police just tend to be there,’ Song says. ‘There’s a lot of informal information-gathering that happens because of their ubiquity. My research shows there’s a lot of passive information sharing because they’re wearing these multiple hats.’

“Because Wisconsin’s abortion ban focuses on physicians, not patients, Song says women won’t have many constitutional protections once an investigation has started. They will be treated as witnesses, rather than defendants.

“Let’s say informally, or the police come in and suspicions are raised and they start asking questions, or it’s been reported, there are a number of things that could happen, they could ask for diagnostic testing, they could ask for the remains and test it,’ Song says. ‘There’s a very gray area of the law of what kind of constitutional protections [she has]. The mother would be perceived as a victim or witness, she wouldn’t be the defendant in all this.’

[...]

“Once the police start asking questions, law enforcement experts say the cops may not be equipped to handle what has become a highly sensitive interrogation.

“‘There’s no empathy at all,’ says Ion Meyn, a law professor at UW-Madison who studies policing. ‘If there’s a sense it’s a homicide they’re not going to be empathetic and a parent in deep grief is going to be interrogated.’

[...]

“It’s not just the cops though, Song says. The medical staff examining the patient play an important initial role in what road law enforcement takes. If the doctor says it’s an abortion, that’s who the cops will believe.

“‘That’s the real harm,’ she says. ‘Even when you come in as a miscarriage, let’s say the nurse or doctor thinks this actually isn’t miscarriage, it’s the remnants of an abortion. There’s been other instances where women come because they have a stillborn child or a miscarriage but hospital providers think it’s something else. They perform this initial diagnostic function. There’s a lot of instantaneous diagnosing at the ER that ends up creating the investigative pathway for police and subsequently the prosecutor.’

“Song adds that the people who are considered believable by doctors are members of advantaged groups, while low-income patients and people of color are often discounted.

“‘The people who are more likely to be not believed it’s a miscarriage and not the after-effects of an abortion would likely be poor people or black and brown mothers who have historically been not believed or criminalized,’ Song says.”