

insights

TYPES NOT MAPPED YET October 27, 2023 | TTR not mapped yet | Jennifer R. Ecklund

The legal and practical impacts of Dobbs v. Jackson Women's Health in 2023

The impacts of "returning the issue of abortion to the states" are both legal and practical. Legally, the *Dobbs* decision has set in motion numerous legal battles involving those seeking to prevent Americans assisting others to obtain abortion care, even in states where that care is constitutionally enshrined. As a result, helping a person access care is being construed as a crime even where accessing that care is (still) a constitutional right. The impact on interstate law, federal supremacy, and preemption is already set to be immense. The differences between states could not be wider, raising the question of how individuals can possess a legal right to and a legal liability for the same conduct.

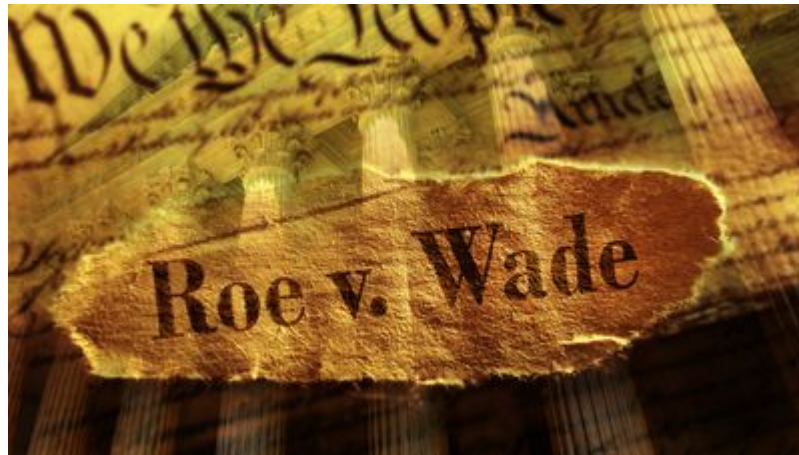
Practically, the initial numbers on abortions post-*Dobbs* suggest the while the number of abortions has actually not gone down, the impact of new abortion bans has **increased** infant mortality and made maternal health care harder to obtain.

The legal landscape related to abortion now turns on issues of standing, jurisdiction, First Amendment, the right to travel, conflict of laws - all notably constitutional and prudential issues not typically left to the people to decide. Meanwhile, the numbers continue to bear out that restricting reproductive rights does not actually correlate with a reduction in abortions, or in positive outcomes for mothers and infants. How other constitutional rights are impacted by the *Dobbs* decision is now the question at hand.

"Early data out of Texas show that after infant mortality rose by 11.5% after it instituted a six-week ban on abortions, upending an eight-year decline in deaths.

Another thing that bans could worsen is the country's abysmal rate of maternal mortality. One report found that before Dobbs, the maternal death rate was 2.4 times higher in states with abortion restrictions than in those without. That gap could easily widen. The Dobbs ruling is already driving some OB-GYNs out of states that have introduced draconian bans. That's making all reproductive health care — including obtaining birth control, getting pap smears, and giving birth — increasingly hard to find in rural areas."

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authorsTest

jennifer

Jennifer R. Ecklund