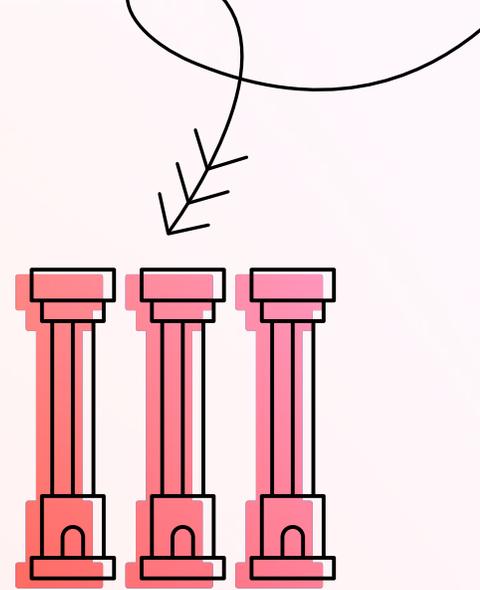


Abortion Rights at the Supreme Court

What LGBTQ+ People Should Know



DECEMBER 6, 2021

On December 1, 2021, the U.S. Supreme Court heard oral arguments in *Dobbs v. Jackson Women’s Health Organization*, the most consequential abortion rights case in nearly 50 years. And on November 1, 2021, the Court also heard oral arguments in two challenges to Texas’ Senate Bill 8, a patently unconstitutional law passed this fall that bans nearly all abortions in the state.

Lesbian and bisexual women, transgender men, two-spirit, intersex, and nonbinary and gender non-conforming people want, need, and receive abortions and the outcome of this case will impact the LGBTQ community. According to the Guttmacher Institute, bisexual, nonbinary, and transgender people are more likely than their heterosexual peers to seek an abortion.

Numerous factors explain LGBTQ people’s disparate need for abortion, such as the link between poverty and lack of access to contraception and abortion rates; the lack of comprehensive and inclusive sex education in schools, which puts LGBTQ youth at risk of unintended pregnancies; and how LGBTQ young people—particularly queer and transgender youth who disproportionately experience homelessness and housing insecurity—may engage in survival sex resulting in an unplanned pregnancy and/or sexual assault.

As we work to secure abortion rights in the United States, we need to recognize that abortion bans both reflect and reinforce deeply harmful stereotypes about women, and the relative value attached to women’s lives. We also must recognize that such bans impact not only cisgender heterosexual women, but LGBTQ people, too, depriving everyone who needs an abortion of dignity, autonomy over one’s own body, and the ability to make fundamental decisions that determine the course of a person’s life, such as the structure of one’s family, and the ability to secure an educational and economic future.

Interested in learning more? Here are some frequently asked questions about abortion access and how the U.S. Supreme Court can impact your ability to access this critical health care.

What is currently happening at the U.S. Supreme Court in regards to abortion rights?

The U.S. Supreme Court is considering cases out of Mississippi and Texas about whether states can ban or chill providers from administering at least some abortions before fetal viability—or when a fetus is able to survive outside the womb—directly challenging its 1973 decision in *Roe v. Wade* and 1992 decision in *Planned Parenthood v. Casey*. In all of these cases, the Court has the potential to severely limit or even effectively eradicate the ability of some people, including LGBTQ people, to end their pregnancies.

Dobbs v. Jackson Women’s Health Organization is a challenge to Mississippi’s 2018 ban on abortion after 15 weeks of pregnancy. Abortion rights advocates, including the Center for Reproductive Rights and the Mississippi Center for Justice, filed a lawsuit challenging the “blatantly unconstitutional ban” on behalf of the Jackson Women’s Health Organization, the last abortion clinic in Mississippi. This case has the potential to overturn *Roe v. Wade*, meaning that its impact will affect access to abortion not just in the state of





Mississippi, but also in states that have not affirmed the right to abortion under state law. The Court heard arguments on December 1, 2021, and its decision will be handed down next year.

The U.S. Supreme Court is also considering two cases challenging Texas' Senate Bill 8, a near-complete ban on abortions in the state: Whole Woman's Health v. Jackson, a case filed by abortion rights advocates, including the Center for Reproductive Rights, Planned Parenthood Federation of America, the ACLU, and ACLU of Texas, on behalf of abortion providers, abortion funds, support networks, and clergy members in Texas and United States v. Texas, a challenge filed by the U.S. Department of Justice. The Court heard arguments on November 1, 2021 and is expected to hand down a decision any day now. The impact of a ruling in favor of the state of Texas and opponents of abortion rights would be limited to that state... for now, but would nonetheless hurt people in need of this important health care service in the largest state in our union.

I am LGBTQ and need an abortion, what should I do?

If you are seeking an abortion you can go to the [National Abortion Federation](#) to find a provider or visit [Planned Parenthood](#) and use their abortion access tool to learn about your state's current laws and available clinics.

There are many barriers to seeking an abortion throughout the U.S. that are dependent on a number of factors: current state laws, financial burdens, needing to travel long distances, but also additional barriers LGBTQ people face because of discrimination.

I am having trouble accessing an abortion in my state, what should I do?

If you are experiencing difficulties accessing abortion in your area, go to [National Abortion Federation's website](#) or call 1-800-772-9100. NAF also has a referral hotline, 1-877-257-0012. If you need help paying for abortion, the [National Network of Abortion Funds](#) can provide financial and logistical assistance.

What should I do if I experience discrimination at a clinic because I'm LGBTQ?

Federal law clearly protects LGBTQ people from discrimination in a health care setting. Section 1557 of the Affordable Care Act prohibits discrimination on the basis of sex, including gender identity. If a health

care provider offers abortions and reproductive health care to cisgender and heterosexual people, they must also provide those same services on an equal basis to LGBTQ people. If you experience discrimination in a health care setting, contact the [Lambda Legal Help Desk](#) immediately or use [Lambda Legal's Health Care Tracker](#).

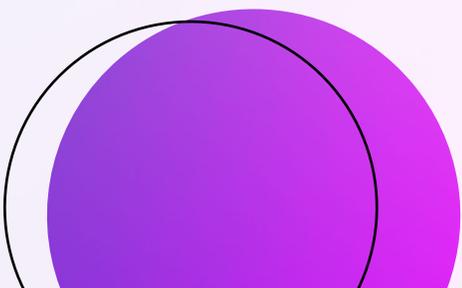
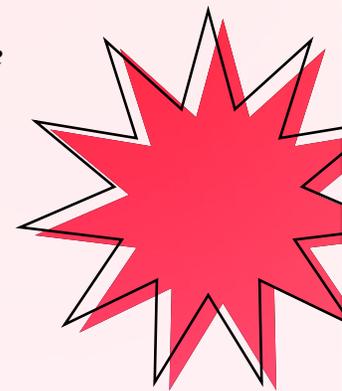
I am an LGBTQ person but do not need an abortion. Is this still an issue that impacts my life?

Yes! While some LGBTQ people may need gynecological services, abortion care, and contraception, all LGBTQ people need access to either STI testing, gender-affirming care, HIV treatment, prevention medication such as PrEP, and/or other forms of quality and essential health care that clinics—that also offer abortions—may provide. This rings especially true for LGBTQ people who live in low-income and/or rural communities.

Suppose these clinics are closed due to restrictive abortions laws, lack of state and federal funding, or an overturning of Roe v. Wade. In that case, our communities will be hit the hardest, pushing our most vulnerable further into the margins.

How do reproductive rights impact LGBTQ rights?

Although not all LGBTQ people will need an abortion sometime in their lives, there are many fundamental civil rights everyone in our community enjoys because of the precedent set by abortion and reproductive rights cases. The movements for LGBTQ civil rights and reproductive justice are inextricably intertwined because at their core, these rights –whether or not to be pregnant, with whom to be sexually intimate, or whether to physically align our body with our gender identity—are about personal autonomy and self-determination.





Additionally, legal victories for access to abortion such as *Roe v. Wade* and *Planned Parenthood v. Casey*, and for contraception such as *Griswold v. Connecticut* and *Eisenstadt v. Baird*, paved the way for *Lawrence v. Texas* (decriminalized private consensual same-sex intimacy), *Windsor v. United States* (overturned the Defense of Marriage Act), and *Obergefell v. Hodges* (struck down all remaining state bans on marriage for same-sex couples). For these reasons, Lambda Legal has supported abortion rights and represented abortion providers ourselves in a [case challenging the so-called 'Conscience Rule.'](#)

What can I do to support abortion rights?

Knowledge is power. The first step is learning where your state stands and how you can get involved. Visit the [Guttmacher Institute's website](#) to learn more about your state's laws. Also, push your Senators to pass the [Women's Health Protection Act](#), a pending federal bill that protects the right to an abortion for everyone everywhere.

Please note:

This document only provides general legal information and is not intended as legal advice. For individual legal advice, please contact an attorney.

