

# What trigger laws tell us about abortion policy and politics in the United States



Following the US Supreme Court's decision to overturn the right to an abortion in the *Dobbs v. Jackson Women's Health Organization* decision, many US states' trigger laws banning abortions in almost all circumstances have or are about to come into effect. [Shyam K. Sriram](#), [Maddie Sontag](#), [Caroline Corker](#), and [Emma Randich](#) discuss states' use of trigger laws to restrict abortion and how they show the wide-reaching effects of overturning of *Roe v Wade* in the US.

The June 24th, 2022 [Supreme Court decision](#) overturning *Roe v Wade* has reignited debate surrounding abortion rights in America, as the country erupted in both protest and celebration. President Biden reflected on the "[sad day for the Court and for the Country](#)," insisting that this decision was a "tragic error." Meanwhile, former Vice President Pence and former President Trump celebrated the decision, referring to it as "[courageous and correct](#)."

In his concurrent opinion, Justice Clarence Thomas contended that the overrule of *Roe* constitutes a reconsideration of the other cases that are built upon "[substantive due process](#)" established by the Fourteenth and Fifteenth Amendments. [Issues that are threatened with Thomas' statement](#) include the right to contraception, the right of same-sex couples to have consensual and private relations, as well as the freedom of same-sex couples to get married.

## Trigger laws

Several state legislatures have been prepared for the overturning of *Roe v Wade* for [almost two decades](#) via what are known as 'trigger laws'. Such laws are enacted by a state legislature and only come into force if there is an external change, such as a Supreme Court decision. Trigger laws are not new; in fact, they exist for other policy scenarios like Medicaid. Nine states – Arizona, Arkansas, Illinois, Indiana, Michigan, Montana, New Hampshire, New Mexico, and Washington – [will end their Medicaid expansions](#) automatically if the federal matching rate for expansion enrollment also falls. Unlike the abortion trigger laws, however, this action will not be triggered by a Supreme Court decision.

[Thirteen states](#) currently have trigger bans that either immediately ban abortion or will effectively ban it in the coming weeks with the *Dobbs v. Jackson Women's Health Organization* ruling. Most of these thirteen trigger bans require action by a state's attorney general, governor, or legislature to certify the Supreme Court ruling. After this certification, usually within 30 days, the trigger ban will go into effect (for example, Tennessee and Texas). On top of this, there are nine more states that are projected to restrict or ban abortion, thus totaling [twenty-two](#) states with prohibitive abortion policies in the near future.

"Federalism's flaws will be highlighted in the coming weeks as states legislate their respective abortion restrictions"

Shyam K. Sriram, Maddie Sontag, Caroline Corker, and Emma Randich writes on what trigger laws tell us about abortion policy and politics in the United States.

[blogs.lse.ac.uk/usappblog](https://blogs.lse.ac.uk/usappblog)







Our analysis of state legislatures and their laws yielded other interesting points of consideration. All thirteen states with trigger laws have a Republican majority in their state legislatures. Of these thirteen states, only two, Louisiana and Kentucky, have Democratic governors. Interestingly, these two states are the only ones to have identical trigger language in their statutes. Most of these states had exceptions including the life of the mother and rape, but Mississippi is the only state that does not allow victims of incest to be exempt from the law.

Nearly [36 million American women](#) of reproductive age would lose access to abortion under these new laws and in many states would risk getting in legal trouble for travelling to another state to pursue an abortion. In a current work-in-progress, authors David S. Cohen, Greer Donley and Rachel Rebouché insist that “the [interjurisdictional abortion wars](#) are coming;” federalism’s flaws will be highlighted in the coming weeks as states legislate their respective abortion restrictions.

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*Note: This article gives the views of the authors, and not the position of USAPP – American Politics and Policy, nor the London School of Economics.*

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