



Written by [Bob Adelman](#) on March 11, 2021

## New Arkansas Abortion Law Intended to Challenge *Roe v. Wade*

The nearly total ban on abortion [signed into law](#) by Arkansas Governor Asa Hutchinson on Tuesday deliberately flouts precedent: It would ban abortions in every case “except to save the life of a pregnant woman in a medical emergency.”

It was designed to do so, to give the Supreme Court a chance to reconsider its flawed decision in *Roe v. Wade*, decided nearly 50 years ago. Said Hutchinson:

I will sign [the bill into law] because of overwhelming legislative support and my sincere and long-held pro-life convictions.

[The bill] is in contradiction of binding precedents of the U.S. Supreme Court, but it is the intent of the legislation to set the stage for the Supreme Court overturning current case law [i.e., *Roe v. Wade*].



ericphotography/iStock/Getty Images Plus

State Senator Jason Rapert, one of the lead sponsors of the bill, made it even more clear, tweeting:

The United States was birthed in 1776. But for 87 years slavery was legal in our country.

Thank God our nation & Republicans fought to abolish slavery even though the Supreme Court had upheld it.

They finally relented.

Today, we in Arkansas proudly stand to #Abolish Abortion.

Other states, including Montana, South Carolina, Kansas, and Alabama, have moved to restrict abortion.

According to the Congressional Research Service, the Supreme Court has overruled more than 300 of its own cases throughout American history.

As recently as last summer, a majority of the court, including Chief Justice John Roberts, overruled the precedent set in *Aboud v. Detroit Board of Education* in a case involving public-sector union dues. That decision (*Janus v. AFSCME*) overturned the high court’s ruling in *Aboud* that had remained in place for more than four decades.



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Given the high court's refusal to consider any of the myriad lawsuits brought over the presidential election fraud, the assumption that the high court would rule against *Roe v. Wade* is weak.

Consider that during Brett Kavanaugh's Senate confirmation hearing he was asked by Senator Dianne Feinstein (D-Calif.): "Is *Roe v. Wade* 'settled law', or can it be overturned?"

Responded Kavanaugh:

It is settled as precedent under the Supreme Court.

One of the important things to keep in mind about *Roe v. Wade* is [that] it has been reaffirmed many times over the years.

He added that as a Supreme Court justice, he would respect the "important precedent" set by *Roe v. Wade*. He went further to state that the 1992 case *Planned Parenthood v. Casey* in which the Supreme Court ruled that the right to an abortion was protected by the Constitution, created a "precedent on a precedent."

There is a ray of light, however. If the high court decides to review the Arkansas abortion law (which is certain to be appealed), sitting alongside Kavanaugh is Justice Amy Coney Barrett. During her confirmation hearing CNN's Ariane de Vogue wrote:

Barrett as a law professor working at a Catholic university made clear that she was opposed to abortion and as a judge voted twice to revisit her colleagues' opinions that struck down abortion restrictions.

In addition, she had to supplement her record when CNN reported upon undisclosed talks she gave as a law professor to student groups that oppose abortion.

There's an ancient quote often attributed to Homer: "There's many a slip 'twixt cup and lip." In modern parlance there are many moving pieces and parts to this puzzle before the odious and offensive ruling in *Roe v. Wade* is overturned. Perhaps the Arkansas bill just signed into law by Governor Hutchinson on Tuesday is one of them.



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