



## UMB News

### Face To Face: Abortion Rights Under Attack

May 5, 2022 | By [Alex Likowski](#)

In a special edition of Virtual Face to Face with President Bruce Jarrell, University of Maryland, Baltimore (UMB) President **Bruce E. Jarrell, MD, FACS**, spoke with three faculty members from the University of Maryland Francis King Carey School of Law about what could be the most significant Supreme Court ruling in recent memory.

Joining Jarrell and an audience of more than 500 members of the UMB community for the May 5 discussion were professors **Leslie Meltzer Henry, PhD, JD, MSc**; **Mark A. Graber, PhD, JD, MA**, University System of Maryland Regents' Professor; and **Robert Percival, JD, MA**, the Robert F. Stanton Professor of Law.



(clockwise from top left) Leslie Meltzer Henry, Bruce Jarrell, Mark Graber, and Robert Percival

"It's a 5-alarm fire," Sen. Patty Murray (D-Washington) told a crowd assembled on the steps of the Capitol two days earlier, on May 4. "This will be the first generation of women with fewer rights than their mothers," she added.

The longtime abortion rights leader was joined that morning by dozens of other concerned, angry, and even astonished lawmakers who read the news overnight that a draft opinion in a Mississippi abortion law case, written by Supreme Court Justice Samuel Alito, had been leaked to the news website *Politico.com*. It's the kind of thing that rarely happens, and it was a bombshell. In that draft, which has since been authenticated by the court, Alito wrote that the Supreme Court's 1973 *Roe v. Wade* decision, the landmark decision that guaranteed a woman's right to abortion would be overturned. Another important decision that confirmed and modified *Roe*, the 1992 *Planned Parenthood v. Casey* decision would also be thrown out.

"Roe was egregiously wrong from the start," Alito wrote. "The constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision." "Any such right," he added,

"must be 'deeply rooted in this Nation's history and tradition."

Chief Justice John Roberts called the leak a "singular and egregious breach of trust," and he was quick to note that the draft is .... A draft and not a final decision. But that draft appears to have won the support of five of the nine justices. Three of those justices were nominated by former President Donald Trump, and all three indicated in their confirmation hearings that they considered *Roe v. Wade* precedent. Some democratic lawmakers say they've been lied to. Even two republican senators, Lisa Murkowski (R-Alaska) and Susan Collins (R-Maine) expressed surprise. Murkowski told reporters her "confidence in the court has been rocked."

Senate Majority Leader Charles Schumer has vowed a fight, promising a vote on a bill that would provide abortion rights protection via federal law. But with the filibuster in place, political analysts see little hope it could lead to passage of law. Even without the filibuster, it's uncertain democrats could get the 50 votes needed for Senate passage.

As dramatic as the impact of this decision (*Dobbs v. Jackson Women's Health Organization*) might be for women's health and reproductive rights, there's even more potentially at stake. Speaking to reporters inside the Roosevelt Room of the White House yesterday, President Joe Biden said the overturning of *Roe v. Wade* could unravel a wide range of privacy rights, such as the right to marry someone of a different race or a different gender, the right to have access to emergency contraception, or any other of a long list of rights previously affirmed by the court, but not specifically mentioned in the Constitution and not "deeply rooted" in American history and tradition.

Many audience members asked the experts what might happen if the court's final opinion is very similar to the leaked draft. In 25 states, like Maryland, existing laws allow abortion either in the first two trimesters or up to viability. But thirteen states - mostly in the South and Midwest - have prepared for a possible overturn of *Roe* by enacting so-called trigger laws, which would effectively ban nearly all abortions almost immediately after a decision from the Supreme Court to overturn *Roe v. Wade*.

Some in the audience expressed concern that in those states and in ten others with existing restrictions, many women might lack the resources to travel to states where abortion would remain legal and would therefore be required to either carry an unwanted pregnancy to term or seek a risky and unlawful abortion closer to home.

Other points of discussion included possible legal measures that might preserve abortion rights if *Roe* is overturned, the idea of Supreme Court reforms, such as term limits or restructuring, and the impact the ruling might have on maternal health.

Watch the entire discussion at the link at the top of this page.

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