

Reproductive Justice Syllabus
Fall 2025
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Office hours: Tuesday 10:30-12 and Thursday 11-1 or by appointment.

Learning Objectives:

This class will examine the legal regulation of sex and reproduction from the 19th century through the present. We will explore specific regulations, as well as the policies behind these regulations. The class will look at who is subject to sexual and reproductive regulations, who is exempt and how that has or has not changed. We will then examine and analyze the many new reproductive laws and policies that have been passed or proposed after the Supreme Court's decision in Dobbs. By exploring the history of reproductive regulation in America, this course seeks to better equip students to understand and analyze the scope, purpose and legality of these new reproductive laws.

Course Materials:

The majority of the readings for class will be from the *Cases on Reproductive Rights and Justice Casebook*, 2nd edition (Murray, Luker). Additional materials are available through the class Twen page under the "weblinks" tab, or "additional materials" and through Westlaw.

Assessments:

Students will write three 7-10 page legal analysis/ policy papers. The papers will count for 70% of the course grade. Class participation will count for 20% of the course grade. In class presentations will comprise 10% of the final course grade.

Attendance:

I will take attendance in class. You do not need to inform me of any absences. However, I will expect you to get the class notes and be prepared for class when you return. Students who miss more than 10% of the course's class periods will need to obtain a waiver from the Associate Dean. Students who miss more than 30% will not receive credit for the class. The Law School's attendance guidelines can be found at:
https://sc.edu/study/colleges_schools/law/internal/current_students/handbook/section_004.php

Legislation/Policy Papers requirements:

If possible pick one state and use it for all three papers

Paper one will focus on a law regulating reproduction that has been enacted or proposed since the *Dobbs* decision (preferably one enacted in the past year). In this paper students will be expected to explain the law, how it was enacted, why it was enacted, the social and economic implications, the potential legality of the law, any ancillary legal questions raised by the legislation, and who will be most impacted. (Note such legislation can be laws that restrict access to abortions, birth control or other reproductive issues or laws passed to protect access to such care)

Paper two will describe a legal challenge to one of the newly enacted post-Dobbs laws. This paper can be written as a case note if the case has already been decided or you can discuss the challenge using the briefs that have been filed. In the paper, explain the legal challenge, the court's decision or likely decision, whether you agree or disagree as a matter of legal interpretation, whether the case is likely to be appealed, and what the issues on appeal will be.

Paper three is a policy paper. Using what you have learned from the course, discuss the purpose behind one/a group of post-Dobbs reproductive regulations. Explain how the current fights over these regulations fit into the history of reproductive regulation and how the current regulations differ from previous reproductive regulations and restrictions. The paper should cover some of the following: where you see reproductive regulation headed in the future, what challenges it will face, how these challenges might fare, the pros and cons of reproductive regulation, how such regulations will affect certain groups specifically, (e.g. women, LGBTQ+, African Americans, low income, religious minorities) the types of regulations you would like to see enacted or not and why, the likely public reaction to such regulations as well as the effect of such regulations on states' rights, federalism, democracy etc..

Paper Due Dates:

Paper 1: Oct 7

Paper 2: Oct 30

Paper 3: Nov 18

Paper Topic examples:

Legalization of over-the-counter birth control/ restrictions on contraceptives (IUDS/Pill).

Increased medical privacy or decreased medical decision-making power.

Restrictions on providing abortion information.

Using the mail to send abortion medication.

Restrictions on travel to procure abortions.

Intersection of reproductive rights and transgender rights

Emergency medical treatment

IVF and Surrogacy

Sterilization

Various first amendment issues

Resource: State Case Database <https://statecourtreport.org/issues/reproductive-rights>

Presentations:

In the second half of the semester, Thursdays will be for presentations so that students will have the opportunity to share their work with their classmates. You may present on any one of your papers. Presentations will not receive a letter grade only participation credit. Presentations will be 15 minutes

Course Readings

Week 1: Regulating Sex

Class 1

Casebook (CB):

- Maynard v. Hill (13-16)
- Skinner v. Oklahoma (16-20)
- US v. Bitty (43-47)

Skim :

- Turner v Safely (21-24)
- Loving v. Virginia (65-69)

Articles:

- <https://newrepublic.com/article/148493/forgotten-war-women>

Class 2

- Lovsi v. Slayton (47-53)
- Doe v. Jindal (86-91)
- King v. Smith (91-97)

Skim :

- Lawrence v. Texas (69-80) (think about how the relationship changes from forbidden to permissible),

Week 2: Contraception

Class 3

Casebook:

- Notes: (572-775)
- One Package (580-87)
- Griswold v. CT (593-602)
- Dias v. Archdioceses (546-552)

Skim:

- Eisenstadt v. Baird (602-04)

Article:

- Where do Reproductive Age women want to get Contraception, <https://www.liebertpub.com/doi/10.1089/jwh.2022.0406>

Class 4:

Casebook:

- Smith v. Ricci (552-555)
- Tummino v. Hamburg (635-644)
- Burwell v. Hobby Lobby (654-688)

Articles:

- Domestic Abusers are Using Abortion bans to control their victims: <https://www.vice.com/en/article/dy3yny/abortion-bans-domestic-abusers>
- Man Convicted of Removing Condom During Sex: <https://www.usatoday.com/story/news/world/2023/03/15/what-is-stealthing-man-convicted/11476683002/>

Week 3: Rt to Conceive

Class 5:

- North Coast Women's Care v. San Diego (486-494)
- Sojourner A v. NJ (321-329)
- Baby M (398-414)
- (will complete an in class drafting exercise)

Statute:

- Cal. Fam. Code § 6320 (West)

Articles:

- Britney Spears Demands End to Abusive Conservatorship: <https://variety.com/2021/music/news/britney-spears-conservatorship-abuse-1235003833/>
- The Rise of Fertility Tourism: <https://www.forbes.com/sites/annahaines/2023/02/16/the-rise-of-fertility-tourism/?sh=2507f10647ef>

Class 6: ART and other issues surrounding conception.

Casebook:

- In re Marriage of Rooks (435-441)
- Raymond T v. Samantha G(481-486)
- Arkansas Dept Human Services v. Cole (384-392)

Twen:

- LePage v. Center for repro. Med. (2024) (additional materials folder)

Articles:

- Egg Freezing isn't the feminist issue you think it is: <https://psmag.com/social-justice/egg-freezing-isnt-feminist-issue-think-94657>

Podcast:

- The Retrievals: <https://www.thisamericanlife.org/804/the-retrievals>

Week 4: Sterilization /Pregnancy

Class 7: Sterilization

Casebook:

- Buck v. Bell (1058-1063)
- Relf v. Weinberger (1064-1072)

Westlaw:

- Wisconsin v. Oakley⁷ 245 Wis. 2d 447 (2001)

Articles:

- Why isn't it easier to get your tubes tied? <https://www.everydayhealth.com/sexual-health/why-isnt-it-easier-to-get-your-tubes-tied/>
- Hamptons Bachelors Getting Vasectomies so Golddiggers Can't Trap Them: <https://nypost.com/2017/05/27/hamptons-bachelors-are-getting-vasectomies-so-golddiggers-cant-trap-them/>
- <https://daily.istor.org/the-little-known-history-of-the-forced-sterilization-of-native-american-women/>
- Judge to Inmates: Get Sterilized (twin course materials)
- <https://www.thetimes.co.uk/article/ukraine-soldiers-castrated-russia-war-0hflzhzlv>

Class 8: Pregnancy

Casebook

- Muller v Oregon (117-125)
- Cleveland Bd of Ed v. LaFluer (140-145)

Westlaw

- Fen Di Chen v. Holder, 399 F. App'x 609 (2d Cir. 2010)

Week 5: Pregnancy cont.

Class 9:

Casebook:

- UAW v. Johnson Controls (145-154)
- University Health Services v. Piazzi (155-159)
- Andrews v. Drew Municipal School (537-41)
- Ordway v. Hargarves (541-546)

Class 10

Casebook

- NJ v. Ikerd (170-174)
- Witner v. State (174-184)
- NJ v. LV &CM (200-204)

Skim:

- State v. McKnight (184-200)

Article

- These states are using fetal personhood to put women behind bars:
<https://www.themarshallproject.org/2023/07/25/pregnant-women-prosecutions-alabama-oklahoma>

Week 6: Childbirth (begin presentations)

Class 11

Casebook:

- Madyun (211-15)
- In re AC (215-223)

- Pemburton (223-228)
- Doe v. Gustavas (246-251)

Articles

- Pregnant and Shackled <https://www.theguardian.com/us-news/2020/jan/24/shackled-pregnant-women-prisoners-birth>
- SC Bans Shackling of Pregnant Inmates: <https://apnews.com/article/a27f46fd1f2c1422a177887466e07b93>

Class 12: Presentations

Week 7: Post-partem

Class 13

Casebook:

- Villegas (252-265)
- Knussman 509-518
- Falk v. City of Glendale (528-33)
- EEOC v. Houston (533-537)

Articles:

- A Year of Breastfeeding Costs As Much as \$11,000: <https://medicine.yale.edu/news-article/a-year-of-breastfeeding-costs-families-as-much-as-dollar11000-study-finds/>
- Breastfeeding Associated with Lower Infant Mortality: <https://www.sciencedaily.com/releases/2023/07/230724122640.htm>
- A new breast pump law has gone into effect: <https://www.nytimes.com/2023/05/03/well/family/pump-act-breastfeeding.html>

Class 14: Presentations

Week 7: Regulating Parents

Class 15

Casebook:

- Meyer (277-280)
- Prince (283-288)
- Quilloin (292-304)

Articles

- Florida School District Removes Five Books After Parents Object:
<https://nypost.com/2023/07/12/moms-for-liberty-gets-5-inappropriate-books-removed-from-florida-schools/>

Class 16: Presentations

Week 8: Regulating Parents

Class 16

Casebook:

- US v. Flores-Villar
- In re RIS (354-358)
- US v. Skrametti (Twen excerpt)

Articles:

- Orange Unified May Mandate Telling Parents Their Child is Transgender:
<https://www.latimes.com/california/story/2023-08-16/orange-unified-may-mandate-telling-parents-if-child-is-transgender-as-policy-spreads>

Class 17: Presentations

Week 9: Abortion

Class 18

Casebook:

- Commonwealth Bangs (690-691)
- People v. Belous, (698- 709)
- Roe v. Wade (709-724)

Articles:

- Characteristics of people obtaining Medication Abortion vs. Procedural,
<https://www.sciencedirect.com/science/article/pii/S0010782423002317?via%3Dihub>
- Adoption is just not for me: <https://www.liebertpub.com/doi/10.1089/jwh.2022.0406>
- I was Raped by my Father. An Abortion Saved My life:
<https://www.nytimes.com/2021/11/30/opinion/abortion-texas-mississippi-rape.html?auth=login-google1tap&login=google1tap>

Class 19: Presentations

Week 10: Abortion cont.

Class 20

Casebook:

- Harris v. McRae (740-754)
- Webster v. Reproductive Health Services (772-787)
- McCormak v. Heideman(862-876)

Article:

- Fifth Amendment Rights as Abortion Rights:
<https://harvardlawreview.org/blog/2023/04/fifth-amendment-rights-as-abortion-rights/>

Class 21: Presentations

Week 11: Abortion cont.

Class 22

Casebook:

- McCullen v. Coakley (915-933)
- Whole Women's Health v. Hellerstadt (949- 976)
- Dobbs (976-1030)

Article:

Texas Women Denied Abortion for Ectopic Pregnancies (Twen weblinks)

Class 23: Presentations

Week 12: Post Dobbs Complications

Class 23

Cases:

- Jackson (1048-1054)
- EMTALA Case (US v. Idaho) (on Twen)
- Sobel v. Coleman (Twen/additional materials)

Class 24: Presentations

Week 13: Catch up on cases and final presentations