

**What If *Roe* Fell? 2007**  
**A New Legal Landscape: Three-Pronged Attack on Abortion Rights**

In the 2004 report, the Center for Reproductive Rights outlined the legal framework anti-choice forces were constructing to overturn abortion rights. In the last three years, they have added important new strategies. Now we can see more clearly how *Roe v. Wade* would be toppled, and what anti-choice forces are doing to ensure that, if it is, abortion rights will be wiped out in several parts of the country. The current anti-choice plan of attack consists of three types of abortion bans: immediate bans, bans that don't go into effect until *Roe* is overturned (henceforth known as "bans-inwaiting"), and pre-*Roe* bans.

**Abortion Bans-In-Waiting:** The newest strategy—and perhaps the most insidious—these state-level bans are not effective immediately but instead would go into effect after *Roe* is overturned. Because they are not yet law, they cannot yet be challenged in court. And because they are not yet in effect, they are perceived as less threatening to abortion rights and so are harder to mobilize against. Once *Roe* is overturned, these bans would not require any legal action to go into effect.

While there were no bans-in-waiting introduced in 2004, **by 2007, four states had passed them - Louisiana, Mississippi, North Dakota and South Dakota – and another five states - Kentucky, Missouri, Oklahoma, Texas and Utah - had considered them.**

**Immediate Abortion Bans:** Bans that intentionally violate the basic tenets of *Roe v. Wade* with the goal of triggering a Supreme Court challenge. The expectation is that by the time a challenge reaches the Court, the Court's composition will have shifted as a result of retirements, with a new Court even more disposed to vote against *Roe*.

**Since 2004, 27 immediate bans have been introduced in 14 states: Alabama, Colorado, Georgia, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Dakota, Ohio, South Dakota, Tennessee and West Virginia.**

**Pre-*Roe* Bans:** Bans that were enacted before *Roe* was decided; some have been blocked by a court, others have not. But either way, they remain on the books and could be revived if *Roe* is reversed.

**The states with pre-*Roe* bans on the books that have not been blocked by a court are Alabama, Delaware, Massachusetts, and Wisconsin. The states with pre-*Roe* bans on the books that have been blocked by a court are Arizona, Arkansas, Colorado, Michigan, New Mexico, Oklahoma, Rhode Island, Utah, Vermont, and West Virginia.**