

[Webster v. Reproductive Health Services \(1989\)](#) ^[1]

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In the 1989 case *Webster v. Reproductive Health Services*, the US Supreme Court upheld the constitutionality of a Missouri law regulating [abortion](#) ^[3] care. The Missouri law prohibited the use of public facilities, employees, or funds to provide [abortion](#) ^[3] counseling or services. The law also placed restrictions on physicians who provided abortions. A group of physicians affected by the law challenged the constitutionality of certain sections of it. The US federal district court that first heard the case ruled many of the challenged sections of the law unconstitutional. The Missouri attorney general then appealed the case to a US federal appeals court and eventually to the US Supreme Court in Washington, D.C. In a five to four decision, the US Supreme Court overturned the decisions of the lower federal courts, ruling that it was constitutional to prohibit public funds, facilities, and employees from providing [abortion](#) ^[3] care. In doing so, the Supreme Court upheld a state law that limited women's access to abortions and established a precedent that states could apply restrictions to [abortion](#) ^[3] care.

On 23 April 1986, the Missouri General Assembly passed House Bill 1596, which governor John Ashcroft signed into law on 26 June 1986. The law was scheduled to go into effect on 13 August 1986. Although House Bill 1596 included twenty stipulations, only some were later challenged in court. Abortion providers in Missouri disputed three main sections of the Missouri law. Those three sections included the interests and rights of a [fetus](#) ^[4], the requirements placed on [abortion](#) ^[3] physicians, and the use of the public resources to provide [abortion](#) ^[3] care.

The first section of House Bill 1596 that [abortion](#) ^[3] providers challenged dealt with the rights and interests of a [fetus](#) ^[4], which the law termed an [unborn child](#) ^[5]. The Missouri law claimed that life began at [conception](#) ^[6], when a man's [sperm](#) ^[7] fertilizes a woman's [egg](#) ^[8]. That [fetus](#) ^[4], according to the Missouri law, had interests that should be protected by the state, including life, health, and well-being. Further, the law stated that fetuses, which they called unborn individuals, have the same rights held by all people and that laws should be interpreted to give them those rights.

The second section of House Bill 1596 that the physicians challenged in court dealt with requirements on physicians performing abortions. The law required that, prior to performing abortions, physicians had to determine the gestational age of the [fetus](#) ^[4], or how many weeks the woman had been pregnant. If a woman was more than twenty weeks pregnant, physicians were required to determine whether or not the [fetus](#) ^[4] was [viable](#) ^[9], or able to survive outside of the [womb](#) ^[10]. If the [fetus](#) ^[4] was [viable](#) ^[9] outside the [womb](#) ^[10], it was illegal to terminate the [pregnancy](#) ^[11]. To determine the [viability](#) ^[12] of fetuses, the law required physicians to perform medical tests to deduce fetus' gestational age, weight, and lung maturity. In addition, for pregnancies beyond sixteen weeks, House Bill 1596 required that physicians perform all abortions in a hospital, not a clinic or other medical facility.

The law also required physicians to certify in writing that they had given pregnant women certain facts before they performed abortions. For example, physicians had to tell women whether or not they were pregnant. Women who had missed their monthly menstrual period might suspect they were pregnant and seek [abortion](#) ^[3] care. In the 1980s, [pregnancy](#) ^[11] tests could not detect a developing embryo in the early weeks of [pregnancy](#) ^[11]. Thus, physicians could not always confirm with certainty that women were pregnant in the early weeks of [pregnancy](#) ^[11]. However, even in those cases, the law required physicians to tell women they were, in fact, pregnant. House Bill 1596 also required physicians to inform women of the risks of the [abortion](#) ^[3] technique to be used, as well as inform women of alternatives to [abortion](#) ^[3].

Finally, the physicians challenged House Bill 1596's restriction of public resources for use in [abortion](#) ^[3] care. House Bill 1596 prohibited public employees or medical facilities from performing or assisting in abortions that were not necessary to save pregnant women's lives. Another section of the bill made it illegal to use public funds, employees, or facilities to counsel pregnant women to have abortions if the procedures were not necessary to save their lives.

On 14 July 1986, multiple organizations and individuals filed a case against the William L. Webster, the attorney general for the state of Missouri, charging the abortions laws unconstitutional. Reproductive Health Services, one of the organizations challenging the law, was a nonprofit [organization](#) ^[13] in St. Louis, Missouri, that offered women's health services and [abortion](#) ^[3] services up to twenty-two weeks' [gestation](#) ^[14]. Another [organization](#) ^[13] challenging the law, Planned Parenthood of Kansas City in Kansas City, Missouri, offered [pregnancy](#) ^[11]-related health services and [abortion](#) ^[3] services up to fourteen weeks' [gestation](#) ^[14]. Several physicians, healthcare providers, and social workers also joined the case against the Missouri law. Those individuals worked at organizations throughout Missouri that were supported in part by public funds and that were subject to the restrictions in House Bill 1596. The organizations and healthcare providers filed the case on behalf of themselves, as well as individuals and organizations in similar positions. The case was first heard in the US District Court for the Western District of Missouri in Kansas, City Missouri.

On 31 July 1986, the District Court granted a temporary injunction, which stopped enforcement of the law until the case was decided. From 15 December 1986 to 18 December 1986, the judges heard the arguments of both sides. Attorneys Michael Boicourt and Jerry E. Short represented Webster in court. Frank Susman and other lawyers argued in court for Reproductive Health Services, Planned Parenthood, and the physicians and healthcare workers. Scott O. Wright served as chief judge and wrote the court's final opinion on the case.

Susman made several requests of the court before the trial began. First, Susman asked the court to give a summary judgment on the case, meaning the judges would decide the outcome of the case without hearing arguments in court. The judges granted summary judgment on one contested section of the law, stating that it was plainly unconstitutional to require attending physicians to personally inform women about the state of their pregnancies, the risks of the procedure, and the alternatives to the procedure. The judges stated that the law's wording required physicians to convey information to the women and prohibited physicians from delegating the tasks to other qualified individuals. However, for the other contested sections of the law, the judges decided that they needed to examine the evidence and hear arguments in court.

Before the trial, Susman also requested that the court not examine any evidence regarding the section of House Bill 1596 that declared life began at [conception](#)^[6] and that fetuses had protectable rights. Susman claimed that the section violated the US Supreme Court's decision in [Roe v. Wade](#)^[15], a case decided in 1973 that established women have a right to [abortion](#)^[3]. In [Roe v. Wade](#)^[15] the Court did not assign any rights to the [fetus](#)^[4] before the third [trimester](#)^[16]. The District Court judges agreed with Susman and did not examine any evidence relating to that section of the law. In their decision, the judges ruled that section of the law invalid.

When the trial began on 15 December 1986, Susman laid out each challenge to the Missouri law. Susman, on behalf of [abortion](#)^[3] care providers in Missouri, first challenged the many requirements of physicians within House Bill 1596. Susman argued that the section requiring physicians to inform women of whether or not they were pregnant was unconstitutional, as it was medically impossible to do so in certain cases. Susman noted the example of menstrual extraction to show that. Physicians used a procedure called menstrual extraction to remove the contents of a woman's [uterus](#)^[17] before a [pregnancy](#)^[11] test could detect a [pregnancy](#)^[11]. Menstrual extraction, by drawing out the contents of a woman's [uterus](#)^[17], acted as a kind of [abortion](#)^[3] up to fourteen days after the woman's normal menstrual period would have occurred. That time was so early in the [pregnancy](#)^[11] that the developing embryo was difficult to detect. Therefore, a physician would not have been able to truthfully tell a woman she was certainly pregnant. Susman also argued that the section requiring abortions after sixteen weeks be performed in hospitals was not justifiable. His clients stated that hospitals did not always have the right equipment for abortions and that hospital staff sometimes delayed the procedures or had unsympathetic attitudes. By requiring physicians to perform abortions in hospitals, the law once again violated their right to practice medicine.

In his continued arguments against requirements of physicians, Susman next addressed the requirement that physicians perform medical tests to determine a fetus's [viability](#)^[12]. Susman and his clients asserted it was unconstitutional for four reasons. First, he argued that the requirement prioritized the rights of fetuses over the rights of pregnant women. Second, he argued that the requirement was vague and did not allow physicians to practice their own medical judgment. Third, Susman argued that the required tests could be unnecessary and harm women's health. Finally, he pointed out that the law did not have an emergency exception to forgo the tests when a woman's health was in danger.

After challenging the many requirements of physicians in the Missouri law, Susman and his clients challenged the sections of House Bill 1596 that prohibited the use of public funds, employees, and facilities to provide [abortion](#)^[3] counseling or services. Susman argued that the section was unconstitutional. He claimed that the word counseling was vague, meaning it was not entirely clear what the law prohibited. That, he stated, could lead to physicians not discussing abortions at all with their patients, for fear of violating the law. Specifically, he asserted that the law violated a women's right to a private relationship with their medical providers, which the US Supreme Court established in the Fourteenth Amendment right to privacy. Susman also claimed the law violated physicians' First Amendment right to free speech.

Susman also argued that prohibiting the use of public facilities for [abortion](#)^[3] care unconstitutionally restricted women's rights to [abortion](#)^[3] care, as established in US Supreme Court case [Roe v. Wade](#)^[15] in 1973. Additionally, Susman claimed that restricting the use of public facilities or the participation of public employees possibly led to imprisoned women not being able to receive abortions.

After Susman gave his arguments against different parts of the Missouri law, Boicourt and Short, the attorneys representing the state of Missouri, responded to some of his claims. First they addressed the many requirements made of physicians. Regarding the requirement that, prior to performing an [abortion](#)^[3], physicians tell women whether or not they are pregnant, Boicourt and Short claimed that some [pregnancy](#)^[11] tests could detect pregnancies before women usually sought menstrual extractions. The Missouri state attorneys also claimed that the requirement did not forbid menstrual extractions, but simply required physicians to tell women whether or not they were pregnant before performing them.

Boicourt and Short also argued that the requirement for physicians to test for fetal [viability](#)^[12] at twenty weeks of [gestation](#)^[14] was constitutional. Boicourt and Short stated that the law did not prohibit abortions prior to twenty weeks. It simply required physicians to test for [viability](#)^[12]. Therefore, the law did not violate the Supreme Court's ruling that states could not regulate

abortions before the fetus^[4] was viable^[9]. Boicourt and Short also argued^[4] that abortions past sixteen weeks had to be performed in hospitals because the procedure could result in dangerous complications or infections that might harm the woman. They maintained that other abortion^[3] care facilities did not have the proper capabilities to deal with the medical problems that could arise after an abortion^[3].

Finally, Boicourt and Short rebutted Susman's claims that prohibiting the actions of public employees or use of public facilities would restrict access to abortion^[3] care. Boicourt and Short claimed that the restriction of abortion^[3] counseling only forbade advocating for abortions that did not save women's lives. The law, they argued, did not prohibit physicians from reviewing the risks or benefits of abortions with their patients. Similarly, they claimed that prohibiting use of public funds for abortion^[3] care did not affect physicians or impact their free speech in counseling women. Boicourt and Short also noted that the US Supreme Court ruled that the government was not required to fund abortions, so prohibiting public funding or public employees' participating in abortions was not unconstitutional.

After hearing the arguments regarding the constitutionality of House Bill 1596, on 30 April 1987 the District Court provided their judgment. Wright, the chief judge for the case, wrote the court's opinion to explain the reasoning behind their decision.

First, the court ruled on the requirement that physicians inform women seeking abortions whether or not they are pregnant. Because the law required physicians to do so without exception, the judges decided that the law infringed on the privacy of physicians' relationships with patients. Women, Wright stated, had a right to consult with their physicians and rely on the physicians' judgement. Therefore, the court ruled that section of House Bill 1596 unconstitutional.

Next, the court ruled on the requirement that all abortions after sixteen weeks' gestation^[14] be performed in a hospital. Wright noted that the US Supreme Court's decision in *Roe v. Wade*^[15] prohibited states from regulating abortions before the third trimester^[16], unless the regulation^[18] protected women's health. Wright and the District Court found that House Bill 1596's requirement forced women seeking abortions to travel farther and spend more money to receive care. In addition to imposing a burden on women, the judges also found that abortions performed in hospitals were not any safer than those performed in clinics or out-patient facilities. Therefore, they ruled that House Bill 1596's requirement was an unconstitutional regulation^[18] on abortion^[3] care prior to fetal viability^[12].

Regarding physician responsibilities prior to providing an abortion^[3], the District Court found most of the requirements constitutional. However, the judges struck down the last part of the requirement, which mandated that physicians determine fetus' gestational age to determine viability^[12] and run all necessary tests to confirm viability^[12]. In the court's opinion, Wright stated that mandating physicians to determine gestational age or run tests to determine viability^[12] violated the physicians' right to use their own judgment on how to determine whether or not a fetus^[4] is viable^[9].

Finally, the judges ruled on the use of public funds and assistance of public employees in abortion^[3] care. With respect to those restrictions, the court ruled that the law was unconstitutionally vague. According to Wright, the law was not clear enough to ensure that it would be evenly applied to all physicians and abortion^[3] care facilities. With respect to the public funding restriction, the judges stated that there was a difference between directly funding abortion^[3] care and allowing physicians to perform abortions in publically owned hospitals. In the opinion, Wright referenced the case, *Nyberg v. City of Virginia* (1982), that dealt with the same issue and allowed for abortion^[3] care in a public hospital as long as there was no direct public spending on it. Thus, the judges ruled that prohibiting abortion^[3] care in public facilities or by public employees was unconstitutional. The judges also stated that prohibiting public employees from assisting with abortions prevented women in prison from having access to abortion^[3] care. In the opinion, Wright stated that the government was not required to pay for imprisoned women's abortions, but the government was required to make abortion^[3] care accessible.

The District Court's decision struck down much of House Bill 1596. On 12 January 1988, Webster and the State of Missouri appealed the decision to the US Court of Appeals for the Eighth Circuit in St. Louis, Missouri. On 13 July 1988, the appeals court gave its decision. The judges, Donald P. Lay, Theodore McMillian, and Richard Sheppard Arnold, upheld all the district court's decisions except for one. The appeals court, however, used different reasoning in their ruling. Lay, who served as chief judge, wrote the court opinion. The appeals court upheld the district court's decisions on the hospitalization requirement, the requirements to determine fetal viability^[12], and the use of public facilities and public employees.

However, the appeals court rejected the district court's decision regarding the use of public funds in abortion^[3] care. House Bill 1596 prohibited the use of public funds to counsel pregnant women to have abortions if the procedures were not necessary to save their lives. The district court ruled that the use of public funding for abortion^[3] care was unconstitutional, overturning the prohibition. Conversely, the appeals court judges stated that the US Supreme Court had made clear that state governments were not required to fund abortion^[3] care. Therefore, the appeals court reversed the district court's decision. The appeals court judges ruled that the prohibition of public funds for abortions was constitutional.

Arnold, one of the appeals court judges, wrote his own opinion case, in which he dissented part of the decision. He agreed that the hospitalization requirement and the viability^[12] tests requirement were unconstitutional. He also agreed with the appeals court decision to uphold the constitutionality of the section prohibiting the use of public funds for abortions not necessary to save women's lives. In his opinion, Arnold dissented with part of the court's decision on the definition of when life began. House Bill

1596 stated that life began at the point of [conception](#)^[6]. Both the district court and the appeals court deemed that definition unconstitutional. Arnold stated that the definition was not altogether unconstitutional. In his opinion, he claimed that it was only unconstitutional when applied to [abortion](#)^[3] and that it was still a useful definition when applied to other subjects.

The appeals court's decision, just like the district court's decision, left much of House Bill 1596 invalid. The attorney general for Missouri, Webster, and the state of Missouri appealed the case to the US Supreme Court, where Webster argued the case against Susman on 26 April 1989. Nine justices heard the case, William Rehnquist, Byron White, Anthony Kennedy, Sandra Day O'Connor, Antonin Scalia, Harry Blackmun, William Brennan, Thurgood Marshall, and John Paul Stevens. The Court did not consider all parts of the law originally challenged by Susman and his clients, as Webster only appealed some of the appeals court's decision. The Court considered the definition of life, the ban on using public facilities or employees to assist in abortions, the ban on using public funding for [abortion](#)^[3] counseling, and the requirement that physicians perform tests to determine the [viability](#)^[12] of fetuses. On 3 July 1989, the Court decided the case. In a five to four decision, the Court reversed all of the appeals court's decisions. Rehnquist wrote the Court's opinion, which White and Kennedy joined, or agreed with, in part.

In the Court's opinion, Justice Rehnquist went through each of House Bill 1596's requirements and explained why the Court found them constitutional. For the first part of his opinion, Rehnquist was the sole author. First, he covered the law's definition that life begins at [conception](#)^[6], pointing out that the law did not apply that definition to [abortion](#)^[3] care to prevent women from receiving abortions. Therefore, the definition was not unconstitutional, as it did not restrict women's access to abortions.

On the requirement that public employees and facilities could not assist in [abortion](#)^[3] care, Rehnquist affirmed that the right to privacy enumerated in the Fourteenth Amendment to the US Constitution did not give women the right to receive abortions from the government. The US Supreme Court case [Roe v. Wade](#)^[15] also did not stipulate that a state must provide [abortion](#)^[3] care to its citizens. Therefore, the Court ruled that it was not unconstitutional to ban public employees or facilities from assisting in providing [abortion](#)^[3] care, as public employees and facilities are part of state government.

Regarding the ban on public funds being used to counsel women to have abortions, Rehnquist stated the appeals court ruled incorrectly on the matter. The Supreme Court did not agree that it was unconstitutional to use public funds for [abortion](#)^[3] care. But, because Susman and his clients did not appeal that decision, the Supreme Court let the appeals court's ruling stand.

For the rest of the opinion, Justices White and Kennedy joined Rehnquist's opinion, meaning they agreed in full with what he was writing. Rehnquist next discussed the Court's decision on the requirement that physicians ensure that fetuses were not [viable](#)^[9] if the [abortion](#)^[3] might be taking place after twenty or more weeks of [pregnancy](#)^[11]. Rehnquist pointed out that the Missouri law did not require physicians to do any tests, which was what the appeals court judges had assumed. The Supreme Court justices interpreted the law to say that physicians had to use only the tests that helped the physician determine whether or not the [fetus](#)^[4] was [viable](#)^[9]. Therefore, the law was not mandating how the physician should practice medicine and so was not unconstitutional. Further, Rehnquist affirmed that the state had a compelling interest in protecting the lives of [viable](#)^[9] fetuses and therefore had a reason to require the [viability](#)^[12] assessment.

Additionally, in discussing [viability](#)^[12], Rehnquist brought up the legal framework established in [Roe v. Wade](#)^[15], which maintained that abortions could not be regulated by the state before the twelfth week of [pregnancy](#)^[11]. The twelfth week of [pregnancy](#)^[11] corresponds to the end of the first [trimester](#)^[16] of [pregnancy](#)^[11], meaning that [Roe v. Wade](#)^[15] prevented states from regulating first [trimester](#)^[16] abortions. Citing the many, intricate laws that had arisen from that [trimester](#)^[16] framework, Rehnquist concluded that the [trimester](#)^[16] framework did not make sense anymore and that making decisions based on the [viability](#)^[12] of fetuses was more useful. Switching to [viability](#)^[12] framework meant that states could regulate abortions during any period that the [fetus](#)^[4] was [viable](#)^[9], or able to live outside the [womb](#)^[10].

The Supreme Court's decision reversed the appeals court's decisions on all the matters they examined. Other Supreme Court justices wrote their own opinions about the case decision. Justice O'Connor concurred with the Court's decisions, except she used different reasoning to justify the requirement that physicians determine the [viability](#)^[12] of a [fetus](#)^[4] before an [abortion](#)^[3]. O'Connor reasoned that in requiring the [viability](#)^[12] tests, the state was not overstepping its ability to regulate abortions. In other words, the [viability](#)^[12] tests were legal because the state had a right to protect the potential life of the [fetus](#)^[4]. Additionally, O'Connor claimed that the tests were not an undue burden on women because they were not costly.

Justice Scalia wrote a similar opinion to O'Connor's. He agreed with the Court's decision about the validity of requiring [viability](#)^[12] tests but had a different argument. Most of his opinion, like O'Connor's, focused on the [viability](#)^[12] tests where Scalia criticized O'Connor's interpretation of the law. O'Connor based her decision on the state's interest in protecting the possibility of a [viable](#)^[9] [fetus](#)^[4]. Scalia stated that [viability](#)^[12] already implied a possibility, the possibility that a [fetus](#)^[4] could survive outside the [womb](#)^[10], and so O'Connor's reasoning was redundant. Scalia wrote that the [viability](#)^[12] tests were already constitutional without O'Connor's new line of reasoning. He argued that the Court had ruled too broadly on other cases, unnecessarily interpreting the law. He claimed that the Court's tendency to rule broadly on cases was distorting the public's view of the Supreme Court, as the Court was using the overbroad rulings to make policy decisions instead of judging the cases as they were.

Justice Blackmun did not agree with the Court's decision. He detailed his thoughts on the case in his dissenting opinion, in which

he agreed with some of the Court's reasoning and disagreed with other parts. Justices Brennan and Marshall joined his opinion, which focused on the [viability](#)^[12] tests. Blackmun outlined three problems with the Court's decision on the [viability](#)^[12] tests. First, he claimed that the Supreme Court had interpreted the law wrong. The Court, he stated, interpreted the law to mean that the physician did not have to perform the specific tests mentioned. Blackmun asserted that the law did, in fact, require physicians to perform those tests, which were for determining gestational age, gestational weight, and lung maturity. Blackmun stated that the law was therefore unconstitutional because it violated a physician's right to practice medicine independently. In addition, he wrote, the law was unconstitutional because the tests had no medical justification. The tests also presented risks to the [fetus](#)^[4] and the pregnant woman because they required piercing the fluid around the [fetus](#)^[4] and potentially exposing it to outside contaminants. The [viability](#)^[12] tests, he concluded, had no purpose other than making abortions more burdensome, which violated [Roe v. Wade](#)^[15].

Blackmun's other two disagreements with the Supreme Court's decision centered on how its reasoning violated the decision made in [Roe v. Wade](#)^[15]. First, Blackmun claimed that the Supreme Court's incorrect interpretation of the law required the Court to change how it decided the legality of abortions. [Roe v. Wade](#)^[15] established that abortions were legal if they occurred within the first [trimester](#)^[16] of [pregnancy](#)^[11]. Before then, states had no right to prohibit them. But Blackmun claimed that the Court's decision in the current case made abortions legal only if they occurred before the [fetus](#)^[4] was [viable](#)^[9]. The [viability](#)^[12] standard, he said, would replace the [trimester](#)^[16] standard, which went against the decision in [Roe](#).

Blackmun's final disagreement with the Court's decision also focused on the Court's treatment of [Roe v. Wade](#)^[15]. The Court's decision in [Webster v. Reproductive Health Services](#) stated that the state could require physicians to do medical tests prior to an [abortion](#)^[3] if those tests permissibly furthered the state's interest in protecting potential life. Blackmun pointed out that that decision was very broad, enabling states to require a wide range of tests as long as those tests somehow related to protecting the fetus's potential life. That, he stated, practically overruled the decision made in [Roe v. Wade](#)^[15] by granting states the right to strictly regulate abortions, even in the first [trimester](#)^[16].

Justice Stevens was the final justice to give his opinion. He concurred with most of the Court's decision but dissented in two areas. First, he contested the Court's decision on the [viability](#)^[12] tests. He wrote that he agreed with the opinions of other justices that there was no need to create new legal interpretations to justify the [viability](#)^[12] tests. He also agreed with Blackmun that the Court had wrongly interpreted the phrasing of the [viability](#)^[12] law and concurred that the tests were unconstitutional.

Stevens also disagreed with the Court's decision on the Missouri law's definition of life. The law defined [conception](#)^[6] as occurring when the woman's [egg](#)^[8] was fertilized by the man's [sperm](#)^[7]. Stevens wrote that most medical textbooks defined [conception](#)^[6] as the point when the embryo implanted in the woman's [uterus](#)^[17], where it would grow and develop into a [fetus](#)^[4]. Stevens claimed that the more restrictive definition of [conception](#)^[6] in the Missouri law prohibited women from using certain forms of [contraception](#)^[19] that disrupted the reproductive process after the [sperm](#)^[7] fertilized the [egg](#)^[8]. That prohibition by the Missouri law, he claimed, violated women's freedom to use contraceptives, as established in the US Supreme Court case [Griswold v. Connecticut](#)^[20] (1965). Stevens went on to say that Missouri's definition of [conception](#)^[6] was in accordance with some Christian beliefs, which violated the Establishment Clause of the First Amendment to the US Constitution. That clause required that religion not play a role in government or law. He concluded that the definition was there purely to prevent access to [abortion](#)^[3] care.

Though many Supreme Court justices disagreed with parts of the majority opinion, as a whole the Supreme Court decided that the Missouri law was constitutional and should not be dismantled. The Supreme Court case [Webster v. Reproductive Health Services](#) helped establish that states could regulate [abortion](#)^[3] care. In the 1992 US Supreme Court case [Planned Parenthood v. Casey](#), the Court used the decision in [Webster](#) to affirm outright that states could regulate [abortion](#)^[3] care, even in the first [trimester](#)^[16], in order to protect fetal life and ensure that women made fully informed decisions. In that same case, the Court used the [Webster](#) decision to state that the legality of abortions should be considered on the [viability](#)^[12] of the [fetus](#)^[4], not the stage of the [pregnancy](#)^[11]. Prior to [Casey](#), abortions were illegal if conducted after the first [trimester](#)^[16]. After [Casey](#), abortions were illegal if performed after the [fetus](#)^[4] was [viable](#)^[9], or able to live outside the [womb](#)^[10]. Both [Webster](#) and [Casey](#) granted the states power to apply more stringent regulations to [abortion](#)^[3] care, limiting women's access to the procedure.

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In the 1989 case Webster v. Reproductive Health Services, the US Supreme Court upheld the constitutionality of a Missouri law regulating abortion care. The Missouri law prohibited the use of public facilities, employees, or funds to provide abortion counseling or services. The law also placed restrictions on physicians who provided abortions. A group of physicians affected by the law challenged the constitutionality of certain sections of it. The US federal district court that first heard the case ruled many of the challenged sections of the law unconstitutional. The Missouri attorney general then appealed the case to an US federal appeals court and eventually to the US Supreme Court in Washington, D.C. In a five to four decision, the US Supreme Court overturned the decisions of the lower federal courts, ruling that it was constitutional to prohibit public funds, facilities, and employees from providing abortion care. In doing so, the Supreme Court upheld a state law that limited women's access to abortions and established a precedent that states could apply restrictions to abortion care.

Subject

[Ashcroft, John D., 1942-](#)^[33] [Birth control clinics](#)^[34] [Abortion](#)^[35] [Family Planning Services](#)^[36] [Abortion--Law and legislation--United States](#)^[37] [United States. Supreme Court](#)^[38] [Contraception](#)^[39] [Reproductive rights](#)^[40] [United States. District Court \(Missouri : Western District\)](#)^[41] [United States. Court of Appeals \(8th Circuit\)](#)^[42] [Wright, Scott O., 1923-](#)^[43] [Webster, William L.](#)^[44] [Planned Parenthood Federation of America](#)^[45] [Susman, Frank, 1941-](#)^[46] [White, Byron R., 1917-2002](#)^[47] [Brennan, William J., 1906-1997](#)^[48] [Rehnquist, William H., 1924-2005](#)^[49] [Marshall, Thurgood, 1908-1993](#)^[50] [Stevens, John Paul, 1920-](#)^[51] [Blackmun, Harry A. \(Harry Andrew\), 1908-1999](#)^[52] [Scalia, Antonin](#)^[53] [Kennedy, Anthony M., 1936-](#)^[54] [O'Connor, Sandra Day, 1930-](#)^[55] [Reproductive Health](#)^[56] [Women's Health](#)^[57]

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