


## Retreat from Roe, Advance Toward Culture of Life

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 **R**oe v. Wade, 410 U.S. 113 (1973), stands out as the worst judicial decision of the twentieth century. It rests on the shakiest foundation: the “living Constitution” idea that certain rights enumerated in the Bill of Rights have “emanations” that form “penumbras” (shadows or auras) that somehow include a concept of privacy that somehow includes the right to decide whether to have children that somehow operates retroactively to include the right to abortion. With that bizarre reasoning, the Supreme Court struck down the abortion law of Texas and those of nearly all other states.

The foundation is shaky, and the consequences are tragic: **about 50 million innocent, unborn lives snuffed out since 1973.**

The Court has not overruled *Roe v. Wade*, but the 7-2 pro-abortion majority in 1973 has gradually shrunk. Today, four Justices are fairly reliably pro-life (Chief Justice Roberts and Justices Scalia, Thomas, and Alito), four are generally pro-abortion (Justices Ginsburg, Breyer, Sotomayor, and Kagan), which means the swing Justice (Kennedy) is one of the most powerful persons in the country.

And while the Court still considers abortion a constitutional right, the Justices are much more willing to recognize other interests that may limit the exercise of that “right.” In *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), the Court upheld a 24-hour waiting period, an informed consent requirement, and a parental consent



requirement for abortions performed on minors—restrictions that the Court would have struck down a decade earlier. And in *Gonzales v. Carhart*, 550 U.S. 124 (2007), the Court (5-4) upheld a federal ban on partial-birth abortion, and the Court’s grisly description of the process and its language about the state’s interest in protecting fetal life could lay the basis for a future decision overturning *Roe v. Wade*.

Since then, states have been passing laws that in one way or another restrict abortion. For example, as of this writing there are bills in Congress to defund Planned Parenthood and to revoke tax credits for insurance companies that pay for abortions. Texas is considering a bill that requires an ultra-sound test before an abortion. South Dakota legislators have a bill to require counseling and a three-day waiting period before abortion. Nebraska has enacted a law prohibiting abortion after the unborn child is able to feel pain, and Alabama is considering a similar law. Ohio is considering a bill that would prohibit abortion after a fetal heartbeat has been detected, and several states are considering legislation or state constitutional amendments that define personhood as beginning at fertilization.

These are only steps, but they are steps in the right direction toward the goal of full legal protection for every unborn human being.

So what’s happening in your state? And what are you doing?

**“Rescue those who are being taken away to death;  
hold back those who are stumbling to the slaughter.”**

(Proverbs 24:11 ESV)

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