

What would it mean...

To Codify Abortion Rights

1 You've likely heard the word 'Codify' used on the news and in social media lately.

2 Codifying abortion rights would involve instating state or federal law, so that the right to abortion is not reliant on court precedents or decisions.

3 If the terms previously outlined by *Roe* were codified into federal law, as has been proposed, it would be binding for U.S. states.

The decision that overturned *Roe*, *Dobbs v. Jackson Women's Health Organization*, does not block the U.S. federal government from passing abortion restrictions that would apply to all states.

4 But is it feasible? ...Well, that's tricky.

In order to **codify** *Roe*, the senate filibuster would need to be suspended. President Biden is endorsing this. Beyond this challenge, some scholars have contended that the constitution does not give Congress authority to enact laws that supersede state laws.

Protecting abortion was attempted with proposed Women's Health Protection Act but was blocked in the Senate due to the filibuster.

5 If codifying is the answer, why hasn't it been done yet?

Passing legislation involves going through the democratic process, so **codifying** federal statutes is difficult to do unless there is an abundance of public support. Scholar Linda McClain (see sources) uses the example of interracial marriage, and says that the reason it was not simply **codified** at the time of *Loving v. Virginia State*, is because there was not enough public support to do so. This is partly why you're seeing a big push for electing candidates who will protect abortion rights.

But, we can't suggest voting to protect abortion without naming the link between abortion rights and voter suppression. Read more [here](#).

Sources:

- '[North Carolina still has time to 'codify' Roe. But what does that mean?](#)' Evan Santiago, The Charlotte Observer
- '[What would it mean to codify Roe into law - and is there any chance of that happening?](#)' Linda McClain, The Conversation