

**University of Washington School of Law**

**Beginning of Life: Rights and Choices  
Law H508, Winter 2021 (2 Credits)  
Tuesdays, 10:30am-12:20pm**

**General Information and Course Syllabus**

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**Office Hours:** By Appointment

**Summary of Course**

This seminar course will address the controversial legal issues engendered by our increasing control over the beginning of life. The course will begin with an overview of the constitutional underpinnings of privacy and liberty that support fundamental rights. The course will then focus on laws, regulations and policies related to contraception, abortion, pregnancy, assisted reproduction (including surrogate parenthood, sperm and egg donation, and in-vitro fertilization) and, if time permits, controversial technology applications (such as cloning and embryonic stem cell research).

**Required Texts**

There is no required textbook for this course. The materials will consist largely of federal and state cases. The course materials will also include excerpts from articles or other texts as necessary.

**Learning Objectives**

By the end of the course, the student will:

1. Understand the jurisprudence regarding “right to privacy” and “liberty” as it relates to contraceptive and abortion cases;
2. Be able to discuss the political and legal arguments regarding abortion and contraception statutes;
3. Be familiar with legal actions in the areas of sterilization, birth injury, and alleged drug delivery to newborns.
4. Distinguish between the legal arguments available for married and unmarried couples in assisted reproduction disputes.
5. Competently analyze beginning of life legal issues.

**Disability-related Needs**

- The University of Washington is committed to providing access, equal opportunity and reasonable accommodation in its services, programs, activities, education and employment for individuals with disabilities. To request disability accommodation, contact the Disability Services Office at least ten days in advance at: (206) 543-6450(voice), (206) 543-6452 (TTY), (206) 685-7264 (FAX), or e-mail at [dso@uw.edu](mailto:dso@uw.edu). If you have a letter from the Disability Services Office, please present the letter to the instructors so that we can discuss the accommodations you might need in the class.

### Religious Accommodation Policy

- Washington State law requires that University of Washington develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at Religious Accommodations Policy (web [link \(Links to an external site.\)](#)). Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form (web [link \(Links to an external site.\)](#)).

### Class Participation

The course will meet once a week for a two-hour discussion session. Students are expected to do all of the assigned "required" reading and to participate in all class discussions. While the professor will moderate and focus the seminar as appropriate, it is anticipated that the subject material will generate spontaneous and vigorous discussion by all students.

### Course Grade

Your course grade will be based on (1) class participation, including one pre-recorded case presentation (15%); on (2) a short writing assignment (35%); and (3) a research paper focusing and elaborating on a legal issue related to the beginning of life (50%). **FOR BOTH WRITING ASSIGNMENTS, YOU WILL BE REQUIRED TO TAKE A POSITION ON AN ISSUE AND PROVIDE A LEGAL ARGUMENT IN YOUR PAPER.** The short writing assignment (approximately 5 pages) will be due by **Tuesday, February 9, 2021 by 4:00 pm**. The final paper must be turned in by **4:00 pm on Friday, March 12, 2021. ALL ASSIGNMENTS ARE TO BE TURNED IN TO ACADEMIC SERVICES USING YOUR STUDENT NUMBER. ONE POINT PER CALENDAR DAY WILL BE DEDUCTED FOR LATE PAPERS.**

The short paper should be no more than 5 pages in length. The final paper should be approximately 10 pages in length. Both papers should be double-spaced, with 1 inch margins, 12-point Times New Roman type, numbered pages, and use proper "law review style" Bluebook citation (footnote form preferred, although endnote form is acceptable). The final paper is *not* designed to meet the School of Law's Advanced Writing Project requirement. Students who wish to use this paper towards fulfillment of the Advanced Writing Project requirement should discuss an E500 credit option with the professor **during the first week of class.**

The short paper will be graded on a 35-point scale using the following criteria: clearly articulated thesis (5 points), analysis and argument (20 points); organization and readability (10 points). The final paper will be graded on a 50-point scale using the following criteria: clearly articulated thesis, analysis and argument (20 points); quality of research (20 points); organization, style, grammar, spelling, readability, page length, proper citation form (10 points). **Late submissions will receive a one (1) point deduction for each calendar day late.**

As this class is a seminar, the pace at which we cover the class readings will depend on the level of student participation—the pacing provided in the syllabus is a guideline, and specific reading assignments for the next class will be identified at the end of each class or by email in advance of class. **IMPORTANT NOTE:** Although all of the readings identified below are relevant to class discussion, not all will be assigned as **required** reading for the class. Depending on the interests of the class and the pace of the class, some readings will be identified in advance (by email or in an earlier class) as **optional** or **supplemental**.

## January 5, 2021

- I. Introduction
- II. General overview of course and its requirements
- III. Short social/legal history of reproductive rights

### Reading:

Mary Ziegler, *Chapter One: The History of Privacy Politics, Beyond Abortion*, Harvard University Press, 2018 (uploaded under Files tab).

Elizabeth Dias and Lisa Lerer, *How a Divided Left is Losing the Battle on Abortion*, New York Times, December 1, 2019,

Francoise Girard, *Abortion Pills Aren't Enough to Keep Coat Hangars in the Closet*, New York Times, November 25, 2018,

Nina Totenberg, *Supreme Court's New Supermajority: What it Means for Roe v. Wade*, National Public Radio, December 31, 2020,

## January 12, 2021

- IV. Right to Contraception
- V. Contraception/Affordable Care Act
- VI. Pharmacist Conscience Clauses and Emergency Contraception

### Reading:

Guttmacher Institute: Facts on Publicly Funded Contraceptive Services in the United States, **Main cases:** *Griswold v. CT*, 381 U.S. 479 (1965) (opinion only); video summary by Julia Yollin at:

*Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751 (2014)

*Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*, 140 S.Ct. 2367 (2020); video summary by Ashley Stoll at:

**Other materials:**

*Stormans, Inc. v. Wiesman*, 794 F.3d 1064 (9th Cir. 2015)

RCW 70.47.160, Providers' right to refuse for reason of conscience or religion

Proposed analytical format:

**January 19, 2021**

**VII. Social and legal foundations of reproductive autonomy**

**VIII. Is there a right to reproduce?**

**IX. Personhood in the eyes of the law**

**X. Is the state required to pay for abortions?**

**Reading:**

The Guttmacher Institute, "State Policy Trends 2019: A Wave of Abortion Bans, But Some States are Fighting Back,"

"The New Abortion Providers," New York Times Magazine, July 10, 2010,

"Should Abortion be Legal?",

**Cases:**

*Roe v. Wade*, 410 U.S. 113 (1973); video summary by Rose Applen at

*Planned Parenthood v. Casey*, 505 U.S. 833 (1992) (Justice O'Connor's opinion sections I, II, IIIA, IV, V, VI)

*Maher v. Roe*, 432 U.S. 465 (1977); video summary by Zoe Wood at

**January 26, 2021**

**XI. Abortion provider legislation**

**First Assignment PUBLISHED**

**Cases:**

*Whole Women's Health v. Cole*, 790 F.3d 563 (5th Cir. 2015); video summary by Jitong Ma at  
*Whole Women's Health v. Hellerstedt*, 136 S.Ct. 2292 (2016); video summary by Becky Gula at

*June Medical Services, LLC v. Gee*, 905 F.3d 787 (5th Cir. 2018)

*June Medical Services, LLC v. Russo*, 591 U.S. \_\_\_\_ (2020); video summary by Simrit Hans at

**February 2, 2021**

**XII. Buffer zones**

**XIII. Other ways to prohibit abortions**

**Cases:**

*McCullen v. Coakley*, 134 S.Ct. 2518 (2014); video summary by Jasjit Grewal at *National Institute of Family and Life Advocates v. Becerra*, 138 S.Ct. 2361 (2018); video summary by Irina Rusanova at

*West Alabama Women's Center v. Miller*, 217 F.Supp.3d 1313 (M.D. Ala. 2016)

*Planned Parenthood Arizona et al. v. Humble*, 753 F.3d 905 (9th Cir. 2014)

*Edwards v. Beck*, 786 F.3d 1113 (8th Cir. 2015)

*McCormack v. Hearn*, 788 F.3d 1017 (9th Cir. 2015)

*Box v. Planned Parenthood of Indiana and Kentucky*, 139 S.Ct. 1780 (2019); video summary by Caroline Sung at

**Other readings:**

"Supreme Court reinstates restrictions on abortion pill, " Politico, January 12, 2021,  
 "Ohio bill orders doctors to 'reimplant ectopic pregnancy' or face 'abortion murder charges,'"   
 "Pregnant people are being offered an unproven treatment to "reverse" abortions,

**February 9, 2021**

**XIV. Politics of Abortion****FIRST ASSIGNMENT DUE—4PM UPLOADED TO CANVAS****SECOND ASSIGNMENT PUBLISHED****Readings:**

Linda Greenhouse & Reva B. Siegel, [Before \(and after\) Roe v. Wade: New Questions about Backlash \(Links to an external site.\)](#), 120 Yale L. J. 2028 (2011) (under Files tab)

*Brief of Amici Curiae of 207 Members of Congress in Support of Respondent and Cross-Petitioner (Dr. Rebekah Gee, Secretary of Louisiana Department of Health)*,

"States Enact Record Number of Abortion Restrictions in 2011,"

States with abortion "trigger bans":

- [Idaho \(Links to an external site.\)](#) ([Idaho Code \(Links to an external site.\)](#) § [\(Links to an external site.\)](#) 18-622 ([Links to an external site.](#)))
- [Utah \(Links to an external site.\)](#) ([Utah Code Ann § 46-7a-201 \(Links to an external site.\)](#)) – identified as “contingently effective”)
- [North Dakota \(Links to an external site.\)](#) ([ND Cent Code \(Links to an external site.\)](#) § [12.1-31-12 \(Links to an external site.\)](#)) – see the “contingent effective date” note)
- [South Dakota \(Links to an external site.\)](#) ([SD Codified Laws \(Links to an external site.\)](#) ([Links to an external site.](#)) § ([Links to an external site.](#)) 22-17-5.1 ([Links to an external site.](#)))
- [Missouri \(Links to an external site.\)](#) ([MO Stat Ann \(Links to an external site.\)](#) ([Links to an external site.](#)) § ([Links to an external site.](#)) 188.017 ([Links to an external site.](#)))
- [Arkansas \(Links to an external site.\)](#) ([AR SB 149 \(2019 \(Links to an external site.\)\)](#)))
- [Louisiana \(Links to an external site.\)](#) ([LA STAT ANN \(Links to an external site.\)](#) ([Links to an external site.](#)) § ([Links to an external site.](#)) 40:1061 ([Links to an external site.](#)))

- [Kentucky \(Links to an external site.\)](#) (HB 148, 153rd Gen. Assemb. Reg Session (Ky 2019) [\(Links to an external site.\)](#))
- [Tennessee \(Links to an external site.\)](#) ([TENN CODE ANN \(Links to an external site.\)](#)) ([\(Links to an external site.\)](#))[§ \(Links to an external site.\) 39-15-214 \(Links to an external site.\)](#) – see subsection (b)(7))
- [Mississippi \(Links to an external site.\)](#) ([MISS CODE ANN \(Links to an external site.\)](#)) ([\(Links to an external site.\)](#))[§ \(Links to an external site.\) 41-41-45 \(Links to an external site.\)](#))

John Eligon, "When 'Black Lives Matter' is Invoked in the Abortion Debate," The New York Times, July 6 2019,

February 16, 2021

## XV. Sterilization and Birth Injuries

### Cases:

*Buck v. Bell*, 274 U.S. 200 (1927)

*Skinner v. Oklahoma*, 316 U.S. 535 (1942); video summary

*In re Guardianship of K.M.*, 62 Wash. App. 811, 816 P.2d 71 (1991)

*Baum v. Burrington*, 119 Wn. App. 36, 70 P.3d 456 (2003)

*Stewart-Graves v. Vaughn*, 162 Wn.2d 115, 170 P.3d 1151 (2007)

RCW 70.122.030

*California Bans Sterilization of Female Inmates Without Consent*, NBC News, July 9, 2013,  
Anna Kusmer, *Sterilized Without Consent: Indigenous Women in Canada File Class Action Lawsuit*,  
Yair Oded, *Former Female Inmate's Call for Dignity for Incarcerated Women Act*

February 23, 2021

## XVI. Assisted Reproduction in the Context of Dissolution

### Reading:

*Davis v. Davis*, [842 S.W. 2d 588 \(Links to an external site.\)](#) (Supp. Ct. Tn. 1992); video summary

*In re Marriage of Litowitz*, [102 Wn. App. 934 \(Links to an external site.\)](#), 10 P.3d 1086

*In re Marriage of Litowitz*, [146 Wn.2d 514 \(Links to an external site.\)](#), 48 P.3d 261 (2002), *cert. denied*,  
123 S.Ct. 1271 (2003); video summary by Enoch Sampson under Files tab

*McQueen v. Gadberry*, 507 S.W.3d 127 (2016)

<http://www.thespermbankofca.org/> (Links to an external site.)

<http://www.myeggbank.com> (Links to an external site.)

(Links to an external site.)<http://www.nightlight.org/snowflake-embryo-adoption/> (Links to an external site.)

<https://www.yourivfsuccess.com.au/> (Links to an external site.)

<https://www.theage.com.au/national/time-to-consider-limits-on-the-will-to-conceive-20210219-p573y4.html> (Links to an external site.)

**March 2, 2021**

**XVII. Assisted Reproduction—Dispute between unmarried parties**

**XVIII. Compensated surrogacy**

**Reading:**

*Jhordan C. v. Mary K.*, 179 Cal. App. 3d 386, 224 Cal Rptr 530 (1986)

*In the Matter of Baby M*, [109 N.J. 396 \(Links to an external site.\)](#), 537 A.2d 1227 (1988)

*Johnson v. Calvert*, [851 P.2d 776 \(Links to an external site.\)](#) (Cal. Sup. Ct. 1993); video summary

*In re T.J.S.*, [16 A.3d 386 \(Links to an external site.\)](#) (2011)

*Stiver v. Parker*, 975 F.2d 261 (6th Cir. 1992).

*Astrue v. Capato*, 132 S.Ct 2021 (2012)

"The Sperm Kings Have a Problem: Too Much Demand," The New York Times, January 8, 2021

"The Case of the Serial Sperm Donor,"

"The Fight for Fertility Equality,"

**March 9, 2021**

"Raising a Child with Cystic Fibrosis," New York Magazine, November 27, 2017,

["Meet the Twiblings \(Links to an external site.\)"](#), New York Times, Magazine, January 2, 2011

"The Made-to-Order Savior," *New York Times*, July 1, 2001

"New U.S. Experiments Aim to Create Gene-Edited Human Embryos,"

"Church Leaders Say Johnson & Johnson Shot Should be Avoided if Alternatives Available,"

**March 12, 2021-- Second Assignment Due**