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New Marquette Law School Poll national survey finds majority of public opposed to overturning *Roe v. Wade*, yet closely divided on 15-week abortion limit

Please note: Complete Poll results and methodology information can be found online at law.marquette.edu/poll

MILWAUKEE —Forty-nine years after the U.S. Supreme Court ruled in favor of a constitutional right to abortion, the public opposes overturning the 1973 *Roe v. Wade* ruling but is closely divided on limiting abortions after 15 weeks of pregnancy.

A new Marquette Law School Poll national Supreme Court survey finds that, among those with an opinion on *Roe*, 28% say they are in favor of overturning the decision and 72% are opposed to overturning it. The case before the Court that includes argument for overturning *Roe*, *Dobbs v Jackson Women's Health Organization*, concerns a Mississippi law that restricts abortion after 15 weeks of pregnancy. Asked about that specific restriction, among those with an opinion, 49% favor that limitation on abortion, while 51% oppose it.

The survey was conducted Jan. 10-21, 2022, interviewing 1000 adults nationwide, with a margin of error of +/-4 percentage points.

There has been little shift in opinion on overturning *Roe* since September, as shown in Table 1. Opinion on *Dobbs*, shown in Table 2, has remained closely divided, but has shifted slightly to being more opposed to the restrictions at issue in *Dobbs* since September. The percentages in the tables show results among those with an opinion of each case.

Table 1: Favor or oppose overturning Roe v. Wade*, among those with an opinion, Jan. 2022*

Poll dates	Favor	Oppose
9/7-16/21	28	72
11/1-10/21	30	70
1/10-21/22	28	72

Table 2: Favor or oppose upholding 15-week abortion ban in Dobbs, *among those with an opinion, Jan. 2022*

Poll dates	Favor	Oppose
9/7-16/21	54	46
11/1-10/21	53	47
1/10-21/22	49	51

As the abortion issues before the Court have received more attention since summer, the percentage of respondents with an opinion about *Roe* has increased. In September, 71% said they had an opinion on reversing *Roe*; the number rose to 77% in January. There was little change in the number holding an opinion on *Dobbs*, which was 73% in September and 74% in January.

A Texas law, Senate Bill 8 (SB-8), is favored by 28% and opposed by 72% of those with an opinion about the law. SB-8 bans abortions after about six weeks of pregnancy, once fetal cardiac activity can be detected, and authorizes individual citizens to sue those who aid others in getting an abortion. In this survey, 81% say they have an opinion about this law. In November, 30% of those with an opinion favored the law, while 70% opposed it. In November, 84% had an opinion on this issue.

Views of the abortion issue differ by partisanship, with Republicans the only partisan group in which a majority favors overruling *Roe v. Wade*, as shown in Table 3.

Table 3: Percent who favor or oppose overturning Roe, *among those with an opinion, by party identification, Jan. 2022*

Party ID	Favor	Oppose
Republican	55	45
Lean Republican	36	64
Independent	31	69
Lean Democrat	9	91
Democrat	13	87

Support for upholding the 15-week ban in *Dobbs* draws more support across all party groups, though with a sharp gradient from Republicans to Democrats, shown in Table 4.

Table 4: Percent who favor or oppose upholding 15-week abortion ban at issue in Dobbs, *by party identification, Jan. 2022, among those with an opinion*

Party ID	Favor	Oppose
Republican	81	19
Lean Republican	80	20
Independent	46	54
Lean Democrat	24	76
Democrat	26	74

Partisan support for the Texas SB-8 law falls between that for overturning *Roe* and that for upholding the restriction at issue in *Dobbs*, among those with an opinion of the law, as shown in Table 5.

Table 5: Percent who favor or oppose Texas SB-8 law, among those with an opinion, by party identification, Jan. 2022

Party ID	Favor	Oppose
Republican	61	39
Lean Republican	40	60
Independent	28	72
Lean Democrat	7	93
Democrat	11	89

Gun rights

On Nov. 3, the Court heard oral arguments in *New York State Rifle & Pistol Association Inc. v. Bruen*. This case considers whether a New York denial of an application for concealed-carry licenses for self-defense violates the Second Amendment.

This survey asked if the respondent would favor or oppose a decision "that the Second Amendment right to 'keep and bear arms' protects the right to carry a gun outside the home." Among those with an opinion, 67% say they favor such a ruling, while 33% are opposed. In September, 63% of those with an opinion favored such a ruling and 37% were opposed. In this January survey, 75% had an opinion on this issue, whereas 70% had an opinion in September.

Views on the right to possess a gun vary with partisanship, with overwhelming support among Republicans and only minority support among Democrats, as shown in Table 6.

Table 6: Percent who favor or oppose right to carry a gun, by party identification, among those with an opinion, Jan. 2022

Party ID	Favor	Oppose
Republican	94	6
Lean Republican	94	6
Independent	70	30
Lean Democrat	47	53
Democrat	36	64

Those with a gun in the household are much more supportive of a right to carry a gun outside the home, as shown in Table 7. Those without a gun in the household are about evenly split, while a large majority of gun householders support a right to carry. Gun owners are also more likely to have an opinion on the issue, 79%, than are those without guns in their home, 72%.

Table 7: Percent who favor or oppose right to carry a gun, by whether there is a gun in the household, among those with an opinion, Jan. 2022

Household status	Favor	Oppose

Gun household	84	16
Not gun household	54	46

Views of vaccine mandates

On Jan. 13, the Court stopped the federal Occupational Safety and Health Administration (OSHA) from enforcing a rule that would have mandated companies of more than 100 employees to require employees to either be vaccinated or be regularly tested for COVID19. The Court held the rule to be likely unlawful and stayed its enforcement pending further consideration of challenges to the mandate in the U.S. Court of Appeals for the 6th Circuit. At the same time, the Court ruled that the federal government could require vaccination of health care workers at facilities that receive Medicare or Medicaid funding.

Asked about these policies, 54% favor the OSHA requirement, with 45% opposed, while 61% favor requiring vaccinations for health care workers and 38% are opposed.

Approval of the Supreme Court

Approval of the U.S. Supreme Court remains evenly divided, with 52% approving and 46% disapproving. Approval declined from 60% in July to 49% in September and has changed little since then. The trend in approval of the Court since 2020 is shown in Table 8.

Table 8: Approval of the Supreme Court, Sept. 2020-Jan. 2022

Poll dates	Approve	Disapprove
9/8-15/20	66	33
7/16-26/21	60	39
9/7-16/21	49	50
11/1-10/21	54	46
1/10-21/22	52	46

Approval has fluctuated among Democrats after falling sharply in September, while there was little recent change among independents and Republicans. All partisan groups have lower approval now than in September 2020. Table 9 shows approval by party over five Marquette Law School Poll surveys since September 2020.

Table 9: Approval of the Supreme Court by party, Sept. 2020-Jan. 2022

Party ID	Poll dates	Approve	Disapprove
Republican	9/8-15/20	80	19
Republican	7/16-26/21	57	42
Republican	9/7-16/21	61	38
Republican	11/1-10/21	61	39
Republican	1/10-21/22	60	37
Independent	9/8-15/20	64	34
Independent	7/16-26/21	61	37
Independent	9/7-16/21	51	48

Independent	11/1-10/21	53	47
Independent	1/10-21/22	52	46
Democrat	9/8-15/20	57	43
Democrat	7/16-26/21	59	40
Democrat	9/7-16/21	37	62
Democrat	11/1-10/21	49	50
Democrat	1/10-21/22	45	54

Perceptions of the basis of decisions

Views of the basis of decisions differ if the respondents are asked about what "motivates Supreme Court justices' decisions" or if, instead, they are asked a question worded with a more institutional focus about whether "the Supreme Court is mainly motivated" by politics or by the law. In this survey, we asked a randomly selected half of the respondents one of this pair of questions at the beginning of the survey, before any other questions except how much attention the respondent pays to politics. This minimizes the extent to which the respondent has been primed to think about the Court. So half of this beginning-of-survey half got one question, and the other half of this early-survey half got the other question.

- When asked about the justices' motivation, 42% of this beginning-of-survey group say the justices are mainly motivated by politics and 58% say mostly by the law.

- In contrast, when asked about the *Court*, 53% of this beginning-of-survey group say the Supreme Court is mainly motivated by politics and 47% say it is mainly motivated by the law.

Then, the other half (again, randomly selected) of the survey respondents were asked one (or the other) of these two questions much later in the survey, after questions about favorability of the justices, ideological placement of the Court, and items about specific cases concerning abortion and gun rights among others. When asked later in the survey, the perception of the motivations for decisions as being politics increases for the wording of both questions—the one speaking of the "justices" and the one focused on the "Court" as a single body.

- When asked late in the survey, 55% say the justices are mainly motivated by politics and 45% say mostly by the law.

- When asked late in the survey about the motivation of the Court as a whole, 60% say the Court is mainly motivated by politics and 40% say mostly by the law.

The implication of this finding is that views of the Court as a single institution provoke the perception of a more political body—and that perception is increased after respondents are required by many questions to think about the Court. In contrast, when the focus is on the *justices*, respondents are more likely to believe "the law" is the motivation of the justices, although this percentage declines (to a minority) after a numerous questions have required the respondent to think more about justices and cases before the Court, whereupon there is approximately an even split in impressions of motivations for decisions.

This reflects some difference in how citizens think about the motivations of individual justices and how they think of the Court as a whole. It also demonstrates that when people are prompted to think about the controversial cases before the Court, the percentage who see *political* motivations for both the justices and the institution increases.

Table 10 summarizes the results concerning the basis of decision.

Table 10: Basis of decision, by question focus and placement in survey, Jan. 2022

Placement	Question focus	Mainly politics	Mainly the law
Beginning of survey	Justices	42	58
Beginning of survey	The Court	53	47
Late in survey	Justices	55	45
Late in survey	The Court	60	40

The structure of opinion about the justices

The public is not familiar with most justices. Only 21% are able to express an opinion of Justice Stephen Breyer. The highest percentage, 55%, give an opinion about Justice Clarence Thomas, while 38% offer an opinion of Chief Justice John Roberts.

The three most recent appointees to the Court, Justices Neil Gorsuch, Brett Kavanaugh, and Amy Barrett, have the lowest net favorable ratings, reflecting contentious confirmations and the polarized environment of contemporary Court appointments. Recognition and opinion of the justices are shown in Table 11.

Table 11: Recognition and favorability ratings of justices, Jan. 2022

Justice	Able to rate	Net favorability	Favorable	Unfavorable
Samuel Alito	26	6	16	10
Amy Barrett	46	-2	22	24
Stephen Breyer	21	7	14	7
Neil Gorsuch	29	1	15	14
Elena Kagan	28	8	18	10
Brett Kavanaugh	53	-11	21	32
John Roberts	38	12	25	13
Sonia Sotomayor	50	20	35	15
Clarence Thomas	55	5	30	25

The public structures its views of the justices in ways that are consistent with the respondent's partisan and ideological views, the party of the appointing president, and the common ideological characterization of the justices.

With the sole exception of Chief Justice Roberts, net favorability aligns with the partisanship of the respondent and the party of the president who appointed the justice, as shown in Table 12. This pattern holds for the less well-known justices (Breyer, Alito, Kagan and Gorsuch) and for the more widely known justices (Sotomayor, Barrett, Thomas, and Kavanaugh). Only Roberts is viewed more favorably than unfavorably by each partisan group.

Table 12: Recognition and favorability ratings of justices, by party identification of the respondent, Jan. 2022

Justice	Party ID	Able to rate	Net favorability	Favorable	Unfavorable
Samuel Alito	Republican	28	20	24	4

Justice	Ideology	Able to rate	Net favorability	Favorable	Unfavorable
Samuel Alito	Independent	21	7	14	7
Samuel Alito	Democrat	31	-11	10	21
Amy Barrett	Republican	56	42	49	7
Amy Barrett	Independent	39	-3	18	21
Amy Barrett	Democrat	48	-38	5	43
Stephen Breyer	Republican	20	-4	8	12
Stephen Breyer	Independent	16	6	11	5
Stephen Breyer	Democrat	27	19	23	4
Neil Gorsuch	Republican	34	28	31	3
Neil Gorsuch	Independent	23	-1	11	12
Neil Gorsuch	Democrat	35	-19	8	27
Elena Kagan	Republican	27	-11	8	19
Elena Kagan	Independent	22	8	15	7
Elena Kagan	Democrat	37	27	32	5
Brett Kavanaugh	Republican	59	43	51	8
Brett Kavanaugh	Independent	42	-12	15	27
Brett Kavanaugh	Democrat	62	-52	5	57
John Roberts	Republican	42	20	31	11
John Roberts	Independent	33	9	21	12
John Roberts	Democrat	40	10	25	15
Sonia Sotomayor	Republican	49	-25	12	37
Sonia Sotomayor	Independent	42	18	30	12
Sonia Sotomayor	Democrat	61	57	59	2
Clarence Thomas	Republican	61	43	52	9
Clarence Thomas	Independent	48	8	28	20
Clarence Thomas	Democrat	59	-29	15	44

Views of the justices also align with the respondent's ideological self-placement, with conservative respondents consistently more favorable to justices usually considered conservative, while liberal respondents are more favorable to those considered liberal justices. These results are shown in Table 13. Roberts is again the exception, viewed rather favorably by the middle categories of ideology but less so among both very conservative and very liberal respondents.

Table 13: Recognition and favorability ratings of justices, by respondent ideological self-placement, Jan. 2022

Justice	Ideology	Able to rate	Net favorability	Favorable	Unfavorable

Samuel Alito	Very conservative	35	21	28	7
Samuel Alito	Somewhat conservative	27	23	25	2
Samuel Alito	Moderate	20	6	13	7
Samuel Alito	Somewhat liberal	30	-16	7	23
Samuel Alito	Very liberal	35	-7	14	21
Amy Barrett	Very conservative	60	54	57	3
Amy Barrett	Somewhat conservative	56	38	47	9
Amy Barrett	Moderate	33	-5	14	19
Amy Barrett	Somewhat liberal	55	-43	6	49
Amy Barrett	Very liberal	58	-48	5	53
Stephen Breyer	Very conservative	24	-12	6	18
Stephen Breyer	Somewhat conservative	20	2	11	9
Stephen Breyer	Moderate	17	7	12	5
Stephen Breyer	Somewhat liberal	27	19	23	4
Stephen Breyer	Very liberal		24	18 21	3
Neil Gorsuch	Very conservative	40	38	39	1
Neil Gorsuch	Somewhat conservative	28	20	24	4
Neil Gorsuch	Moderate	22	0	11	11
Neil Gorsuch	Somewhat liberal	36	-18	9	27
Neil Gorsuch	Very liberal	41	-29	6	35
Elena Kagan	Very conservative	31	-27	2	29
Elena Kagan	Somewhat conservative	28	-6	11	17
Elena Kagan	Moderate	23	9	16	7
Elena Kagan	Somewhat liberal	34	30	32	2
Elena Kagan	Very liberal	35	33	34	1
Brett Kavanaugh	Very conservative	64	62	63	1
Brett Kavanaugh	Somewhat conservative	55	35	45	10
Brett Kavanaugh	Moderate	41	-17	12	29
Brett Kavanaugh	Somewhat liberal	66	-54	6	60
Brett Kavanaugh	Very liberal	65	-59	3	62
John Roberts	Very conservative	54	6	30	24
John Roberts	Somewhat conservative	40	18	29	11
John Roberts	Moderate	30	14	22	8

John Roberts	Somewhat liberal	39	15	27	12
John Roberts	Very liberal	40	0	20	20
Sonia Sotomayor	Very conservative	54	-48	3	51
Sonia Sotomayor	Somewhat conservative	49	-23	13	36
Sonia Sotomayor	Moderate	41	29	35	6
Sonia Sotomayor	Somewhat liberal	62	54	58	4
Sonia Sotomayor	Very liberal	59	57	58	1
Clarence Thomas	Very conservative	64	50	57	7
Clarence Thomas	Somewhat conservative	63	43	53	10
Clarence Thomas	Moderate	48	4	26	22
Clarence Thomas	Somewhat liberal	60	-28	16	44
Clarence Thomas	Very liberal	51	-39	6	45

Wording of questions about possible future Supreme Court decisions: These items do not attempt to exactly frame the particular issues in specific cases but rather address the topic in more general terms.

Do you favor or oppose the following possible future Supreme Court decisions, or haven't you heard enough about this to have an opinion? …

- Overturn Roe versus Wade, thus strike down the 1973 decision that made abortion legal in all 50 states.

- Rule that the 2nd Amendment right to "keep and bear arms" protects the right to carry a gun outside the home.

Rule to uphold a state law that (except in cases of medical emergencies or fetal abnormalities) bans abortions after the 15th week of pregnancy.

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