



September 21, 2022

VIA ELECTRONIC MAIL

The Honorable Charles E. Schumer
Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Dear Majority Leader Schumer,

For the first time in our nation's history, the Supreme Court of the United States has rescinded a constitutional right it once recognized, and it has done so at the expense of women and other people who can become pregnant. In light of the Supreme Court's recent decision in *Dobbs v. Jackson Women's Health Organization* and Justice Clarence Thomas's concurrence, the need to enshrine sex equality in our Constitution is as imperative as ever.

As the dissent in *Dobbs* [noted](#), one certain result of the majority's decision is "the curtailment of women's rights, and of their status as free and equal citizens." Given the unacceptable maternal mortality rates in the United States, this decision will quite literally lead to preventable deaths for pregnant people. Moreover, this decision will exacerbate existing racial disparities. As ACS Board Member Professor Michele Goodwin [testified](#) to the Senate Judiciary Committee last year, "[d]isproportionately, the women who die during their pregnancies or shortly after birth are Black and Latina."

Autonomy of decision-making on reproductive health options is also critical to women's economic independence and stability. It allows them to [invest in their own human capital](#), increasing their education and labor force participation. For nearly 50 years, Americans were able to structure their lives around the ability to access reproductive healthcare, which included abortion care. Now, that freedom is no longer constitutionally protected because a majority of the Supreme Court—hostile to the very idea of substantive due process embedded in the Fifth and Fourteenth Amendment—threw out half a century of precedent protecting a person's right to access abortion services.

And at least one justice has [expressed](#) an interest in revisiting all other constitutional rights grounded in substantive due process, around which many Americans have built their lives. These include but are not limited to access to contraception, the ability to marry regardless of sex or race, and the right to engage in private intimate acts regardless of sex. It is clear that we can no longer presume that this Court will uphold and vindicate our fundamental rights. Greater protection is needed. The Equal Rights Amendment would explicitly enshrine sex equality in our Constitution and enable Congress to pass laws that provide such protection.

ACS is happy to provide you or your staff any additional information regarding the Equal Rights Amendment and the critical need to enshrine sex equality in the Constitution.

Sincerely,

A handwritten signature in black ink, appearing to read "Russ Feingold", is centered on a light gray rectangular background.

Russ Feingold
President