

Democrats worry they lack a plan to fight back on Roe v. Wade

Democrats are worried their party lacks a clear plan to push back at what is certain to be an onslaught of abortion restrictions in the wake of a Supreme Court draft ruling striking down Roe v. Wade.

While Democrat after Democrat has cried out over the possibility a conservative Supreme Court could eviscerate abortion rights, strategists say little is being offered in terms of a clear way to fight back.

Some also say the party wasn't ready for something that was clearly coming down the pike.

"Why are we so behind the curve on this? Where is the plan? We knew this was coming in theory since Coney Barrett joined the court, and in practice since December," said Democratic strategist Christy Setzer.

"I don't want to hear empty rhetoric about how 'we won't go back,' I want to hear that there is a legislative or federal plan to change things," she added.

President Biden and Vice President Harris have assailed the leaked draft opinion. In an impassioned speech at the EMILY's List gala on Tuesday night, Harris declared that women's rights were under attack, previewing her party's midterm messaging.

Strategists say the rage is real. But they are worried the party has no real strategy.

"We're all so enraged but now what? What's the plan? Sadly, I don't think we have one," said one strategist. "There's so much talk of 'We can't let this happen.' But I don't think anyone knows what to do next."

There are significant limits to what the White House and Democrats in Congress can do if the Supreme Court strikes down Roe v. Wade and GOP states begin to outlaw abortion rights.

Previous efforts to codify abortion rights into law have failed and Democrats do

not have the votes in Congress to overcome a filibuster.

“I think their options are very limited, and what I’ve been advising is for the White House to focus on winnable battles,” said Lawrence Gostin, a public health law professor at Georgetown University.

While some progressive Democrats have renewed a push to do away with the legislative filibuster, Biden isn’t joining that effort – at least not yet. Instead, he’s called on voters to elect more pro-abortion Democrats to Congress, a message echoed throughout his administration.

Democrats may not even have 50 votes to codify abortion rights. Sen. Joe Manchin (R-W.Va.), who describes himself as a pro-life Democrat, voted against advancing the Women’s Health Protection Act earlier this year.

Biden has ordered the Gender Policy Council and the White House counsel’s office to develop a response plan in preparation for a Supreme Court ruling, but it’s too early to know what that plan will entail. Any steps could also face legal challenges from Republican attorneys general.

White House press secretary Jen Psaki said Wednesday that the administration will not release its plan until after the final opinion is released, conscious of not getting ahead of the official ruling expected to come over the next two months.

“We don’t have a final conclusion. The Supreme Court themselves made clear this is not the final opinion,” Psaki said. “We are already working a great deal behind the scenes and we will have more to say.”

Psaki said that officials across the administration are focused on helping those who will be most affected by the ruling, including women of color and poorer Americans who will face bigger financial challenges accessing abortions if Roe is overturned and states enact restrictions. The White House believes that as many as 26 states will move to restrict abortion if the draft opinion holds.

Gostin offered that the Centers for Disease Control and Prevention could prepare a report on the physical and mental consequences for women for don’t have access to safe and lawful abortions. He also said the Food and Drug Administration could expand its guidance on the use of abortion pills, such as specifying where people can safely order them.

He also said that Biden is considering allowing the use of Medicaid funding to pay for time off and travel for women who need to travel out-of-state to receive abortions.

The administration's actions thus far have offered little solace to frustrated Democrats.

Some progressives are calling for more aggressive action, including renewing a controversial push to expand the number of justices on the Supreme Court.

"We aren't powerless," Rep. Hank Johnson (D-Ga.) said on an organizing call for the progressive advocacy group Demand Justice Wednesday night. "Two things that we must do to protect and preserve our democracy: one, we must get rid of the filibuster and, two, we need to add some seats to the United States Supreme Court."

Meanwhile, a coalition of organizations including Planned Parenthood, MoveOn and Women's March announced plans Thursday to hold marches in four major cities including in Washington, D.C., as part of a coordinated effort to protest the forthcoming ruling.

The White House has pointed to steps the administration has already taken, such as creating \$6.6 million in grants for family planning services and emergency contraception for people in states with restrictive laws.

"We are going to double down on the effort to make sure that the legal rights of all Americans, women to access the care that they're entitled to continues forward," Health and Human Services Secretary Xavier Becerra told lawmakers at a Senate hearing this week.

Gostin said the White House was unprepared for the uproar created by the leaked draft opinion earlier this week.

"The leak has really made this an outsized public and political issue even more so than the actual opinion would have been," he said. "It's caused a huge political tsunami."

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