



## **RESOLUTION ON *DOBBS v. JACKSON WOMEN'S HEALTH ORGANIZATION***

Adopted by the Board of Governors of  
The American Academy of Matrimonial Lawyers  
at its meeting on October 12, 2022

The majority opinion of the United States Supreme Court decision in *Dobbs v. Jackson* (2022) challenges the American Academy of Matrimonial Lawyers (the “AAML”), the family law profession, and family justice courts in profound ways. In furtherance of the notion of “a more perfect union” rooted in the natural right to life, liberty and the pursuit of happiness, the United States Supreme Court acknowledged the right of privacy emanating from our Constitution over 50 years ago, beginning with *Griswold v Connecticut* and continuing through *Eisenstadt v Baird*, *Roe v Wade*, *Planned Parenthood v Casey*, and *Obergefell v Hodges*. These precedents secured certain fundamental human rights as the law of the land for over half a century—rights of reproductive self-determination and autonomy in personal and familial relationships. Many Fellows of the AAML applied, and continue to apply, their skills to ensure access to justice and to protect these most basic human rights.

The *Dobbs* decision eschews these precedents that reflect the evolution of American society from one where, for example, women were barred from running for office or voting, and where many segments of the population were marginalized and victimized. *Dobbs* grounds itself in an “historical” analysis of a time in our country’s history when due process and equal

protection were ideals in name only for a good portion of those residing in the United States. It took many decades before all men and women, irrespective of race, gender, or faith, could vote and run for office, were no longer barred from testifying as witnesses under oath or serving on juries, could attend public school or pursue higher education, could become licensed as doctors or lawyers, could marry or divorce, could serve in the military equally, or could own a home and build a business in any community. It is—and should be—our collective hope that the fundamental rights which have developed to reflect our societal evolution, and which have been expressly recognized and preserved in decisions of the U.S. Supreme Court, will not be stripped away one by one. The rationale of the *Dobbs* decision, however, creates the very real danger that the rights our society has come to accept as fundamental will fall victim to just such a fate.

When the AAML was founded in 1962, family law practice did not include numerous rights that we now take for granted, such as the right to protection for domestic violence survivors through legislatively and judicially mandated court orders; the right to marry and cohabit with the individual of one's choice, irrespective of race, creed or sexual orientation; the right to create a family through adoption whether married or non-married; the right to engage in IVF and other forms of reproduction with medical assistance; the rights of grandparents and de facto parents who play such a fundamental role in the lives of children today; marriage equality; and the right to exercise one's own reproductive freedom, among many others. In a post-*Dobbs* world, should decisions addressing basic, fundamental rights be viewed—and judged—through the prism of the remote past, and weighed in view of what our distant forefathers might have thought of them, each and every one of the above rights might

be called into question, such harm falling disproportionately on minorities and the most vulnerable in our communities. *Dobbs* raises profound concerns that the legal structures that protect families (and individuals looking to form their families, in their own time) from discrimination nationally may become a fractured and unpredictable puzzle of risks between states. In such circumstances, vulnerable individuals and families-- many of whom are in already underserved communities-- would be forced further into the shadows or margins of society.

The AAML opposes an interpretation of the Constitution and Bill of Rights which rejects the fundamental right of privacy, rights protecting familial and individual autonomy, and the rights of individuals to order their own personal world. Accordingly, the AAML continues to support the right of reproductive liberty as a fundamental human right, along with all of the other established rights of privacy recognized by the highest court in this land, based upon the recognition that the guarantee of liberty woven into the fabric of our nation's history secures the right to personal and familial self-determination.