

RIGHT TO PRIVACY

This right is not specifically expressed in the Constitution, but a right to privacy is generally assumed and accepted by the public.

Right to Privacy – Constitutional Sources

1st Amendment - freedom of speech & association imply right to privacy

3rd Amendment - no quartering of soldiers in peace time >>> no unreasonable intrusions into a persons reasonable expectation of privacy especially in the home; “a man’s home is his castle” idea

4th Amendment - no unreasonable search and seizures >>> must have probable cause; again, expectation of privacy in the home

9th Amendment - enumerated rights in Const “shall not be construed to deny other rights retained by the people” ex: right to privacy

14th Amendment - guarantees right to due process re: life, liberty and property; applies the Bill of Rights to the states >>> liberty interpreted as “right to choose” abortion or not

Right to Privacy – Supreme Court Decisions

Griswold v Connecticut - right to privacy in family planning

Roe v Wade - forbade state control of abortion in 1st trimester of pregnancy; limited control during 2nd trimester

Webster v Reproductive Health Services [MO] (1989) - narrowed protection of *Roe* >>> states can put limits on the use of public funds for abortion, but upheld basic right to an abortion

Planned Parenthood v Casey (1992) - states may not prohibit an abortion before the fetus becomes “viable;” after viability, state may regulate; states may put restrictions on right to abortion but they may not place an “undo burden” on the exercise of these rights