

Buffer Zone Laws:

Tracking the Evolution of the First Amendment in the Modern Supreme Court and Its Impact on State Legislation

Timeline: Buffer Zones and the Supreme Court

Case	Result
Madsen v. Women's Health Center (1994)	Upheld Buffer Zone (6-3)
Hill v. Colorado (2000)	Upheld Buffer Zone (6-3)
McCullen v. Coakley (2013)	Declared Buffer Zone Unconstitutional (0-9)

What explains the discrepancy in these cases?

A court-wide shift in first amendment understanding

Thesis

“The attitudinal shift I propose in First Amendment thinking makes it more difficult for states to prove the existence of compelling interest in a manner that adequately convinces the Supreme Court of the need for governmental constraints on speech. This type of change in interpretation surrounding the First Amendment would naturally have greater implications on the future of speech. Particularly, the country might see an increased frequency of vitriolic, targeted and belligerent speech, especially in today's tense political climate where the passions of the people seem exceptionally enflamed”

Research Design

When evaluating the Oral Arguments and Opinions in an attempt to make sense of the surprising ruling in *McCullen v. Coakley*, I paid special attention to the introduction of ideas. Legal considerations that play a big role throughout all three cases cannot account for the Court's divergent conclusion in *McCullen v. Coakley*.

I also studied the Opinions in order to see how much time the authors devoted to certain topics. Legal questions that the justices debate extensively normally serve as linchpins for the eventual decision.

As an additional source I interviewed Gabrielle Viator, who worked in the Civil Rights Division of the Massachusetts Attorney General's Office during the early phases of the case and handled most of the discovery, depositions and negotiations of the agreed-to facts.

Impact of Decision on State Legislation

An analysis of these cases provides substantial insight into how state governments create more localized laws. I argue that state and local governments do not legislate in a vacuum with only the desires of their constituency in mind. The Court has ways to exert its influence upon the states and they in turn often create laws with federal understanding in mind, relying on cases and precedents set by the federal Judiciary. This idea adds a dimension to the traditional understanding of federalism.

Covert Ways in which the Supreme Court exerts influence over state legislatures:

1. Cert of Writ
2. Judicial Review