



**For Immediate Release**

**Date:** August 29, 2018

## **Judge Kavanaugh Would Fulfill President Trump's Promise To Overturn *Roe v. Wade***

*Roe v. Wade, which protects a woman's right to privacy and to make her own reproductive health care choices, faces an immediate threat with the nomination of Judge Brett Kavanaugh. President Trump has repeatedly stated that he would only select Supreme Court nominees who would overturn *Roe v. Wade* and strip women of the right to make their own decisions about their health. Justice Kennedy was the deciding vote in two landmark decisions protecting *Roe*. Today, legal challenges to *Roe* throughout the country are imminent and poised to advance immediately. In light of President Trump's commitment to end a woman's right to make her own reproductive health care decisions – and Judge Kavanaugh's record of praising the *Roe v. Wade* dissent – the future of women's reproductive freedom is at stake with the Kavanaugh nomination.*

### **A WOMAN'S RIGHT TO CHOOSE IS UNDER THREAT IMMEDIATELY IF JUDGE KAVANUGH IS CONFIRMED**

- Anti-choice groups have been laying the legal groundwork for years to overturn *Roe v. Wade* in anticipation of Justice Kennedy's retirement. They have been working to pass bills banning all abortions at 20 weeks at the federal and state level to give the Supreme Court an opportunity "to either gut or overturn *Roe v. Wade*." [\[5/31/18\]](#)
- If *Roe v. Wade* is overturned, any state government could immediately act to eliminate a woman's right to choose.
- At least 20 states have legislatures that are poised to enact abortion bans immediately if *Roe v. Wade* is overturned. Four of those states have trigger laws on the books that would automatically ban abortion if *Roe* is overturned. If *Roe* is overturned, it is even possible that anti-choice legislators could enact a nationwide abortion ban.
- Several state laws that undercut the right to choose are already teed up for possible review. They include:

- State laws that prevent low-income women from getting preventive health care services at Planned Parenthood clinics, including an Ohio law that bans the Ohio Department of Health from awarding funds for health programs to any entity that contracts with, or is affiliated with, an abortion provider, like Planned Parenthood.
- Laws in Louisiana and Missouri that require physicians who perform abortions to have admitting privileges at nearby hospitals or surgical centers.
- An Indiana law that requires an 18-hour waiting period between a mandatory ultrasound and an abortion.

### **PRESIDENT TRUMP PLEDGED ANY NOMINEE HE PICKED WOULD OVERTURN *ROE V. WADE***

- In response to a presidential debate question that asked whether he wanted to “see the court overturn *Roe v. Wade*,” then-candidate Trump responded, “Well, **if we put another two or perhaps three justices on, that’s really what’s going to be – that will happen. And that’ll happen automatically, in my opinion, because I am putting pro-life justices on the court.**” [Trump-Clinton Presidential Debate in Las Vegas, [10/19/16](#)]
- In 2016, Bill O’Reilly asked then-candidate Trump for his commitment that **he “would be appointing a Supreme Court justice that would overturn *Roe v. Wade*. Do I have it?”** Trump answered, **“I will appoint judges that will be pro-life, yes.”** [Fox News, [5/10/16](#)]
- **Then-President-Elect Trump:** “I’m pro-life. The judges will be pro-life.” [CBS 60 Minutes, [11/13/16](#)]
- Following the nomination of Judge Kavanaugh, Vice President Pence reiterated his desire to see *Roe* overturned, then reasserted that the Trump administration “will continue to be a pro-life administration.” [CNN, [7/10/18](#)]

### **JUDGE KAVANAUGH’S OWN WORDS SUGGEST HE WOULD OVERTURN *ROE V. WADE* IF GIVEN THE CHANCE**

***“Judge Kavanaugh’s record on issues of concern to social conservatives is rock solid, and it far exceeds that of any other contender.” –[former Kavanaugh law clerk](#)***

Judge Kavanaugh has a history of troubling comments that suggest he may vote to overturn *Roe v. Wade*.

Last year, Judge Kavanaugh [praised](#) Justice Rehnquist's dissent in *Roe v. Wade*, stating that Rehnquist "was successful in stemming the general tide of freewheeling judicial creation of unenumerated rights that were not rooted in the nation's history and tradition."

Judge Kavanaugh [further praised](#) Justice Rehnquist for his work to "[limit] the court's role in the realm of social policy and [help] to ensure that the court operates more as a court of law and less as an institution of social policy." This was an unambiguous indication that Judge Kavanaugh would not support women's reproductive freedom.

### **JUDGE KAVANAUGH DISREGARDED PRECEDENT TO RULE AGAINST A WOMAN'S REPRODUCTIVE RIGHTS, IN A DECISION TOUTED BY ANTI-CHOICE ACTIVISTS**

In the 2017 case *Garza v. Hargan*, Judge Kavanaugh ruled in favor of the Trump administration's efforts to stop a woman from exercising her reproductive rights, dissenting from the majority of the D.C. Circuit, which ruled against the Trump administration. The majority of the D.C. Circuit followed the precedent set by *Planned Parenthood v. Casey*, a case in which Justice Kennedy was one of the critical swing votes. Judge Kavanaugh did not.

- In *Planned Parenthood v. Casey*, the Supreme Court firmly established that the constitutional right to privacy protects a woman "from unduly burdensome interference with her freedom to decide whether to terminate her pregnancy." This standard — known as the "undue burden" standard — prohibits government action that "has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." (*Casey*, 505 U.S. 833, 874, 877 (1992)).

In his dissent, Judge Kavanaugh shunned the longstanding "undue burden" standard and imposed his own moral standards on the woman in the case. Judge Kavanaugh concluded that the government's conduct in this case—which caused a *nine-week delay* in the pregnant seventeen-year-old's ability to exercise her right to choose and jeopardized her ability to obtain an abortion all together—did not amount to an "undue burden."

Anti-choice groups clearly believe that Judge Kavanaugh is on their side. The Susan B. Anthony (SBA) List specifically cited Kavanaugh's opinion in the *Garza* case as a reason to support Kavanaugh. SBA List President Marjorie Dannenfelser [said](#) Judge Kavanaugh has "a strong record of protecting life and constitutional rights, as evidenced by his opinions in *Garza v. Hargan* and *Priests for Life v. HHS*."

### **ANTI-CHOICE ACTIVISTS CELEBRATED JUDGE KAVANAUGH'S NOMINATION AS ONE STEP CLOSER TO OVERTURNING ROE V. WADE, PRAISING HIS "PRO-LIFE" CREDENTIALS**

- **Brian Fisher, President of Human Coalition:** “**Kavanaugh gives great hope to the pro-life movement that the end of *Roe v. Wade* and legal abortion is in sight.**” [Twitter.com, [7/9/18](#)]
- **Life News:** “President Donald Trump tonight has nominated pro-life friendly federal appeals court Judge Brett Kavanaugh to the Supreme Court. **Kavanaugh has taken the pro-life side in important cases and has very strong pro-life Bona fides** — prompting one leading pro-life attorney to say he would be an excellent addition to the Supreme Court.” [Life News, [7/9/18](#)]
- **Faith and Freedom Coalition asked supporters to tell their Senators to vote to confirm Kavanaugh because he would be a “strong” voice on “overturning *Roe v. Wade*.”** The petition stated, “I’m writing you to strongly urge you to confirm Judge Kavanaugh to the U.S. Supreme Court, as quickly as possible...On top issues like free speech, the Second Amendment, religious freedom, affirmative action, and overturning *Roe v. Wade*, Judge Kavanaugh will be a strong and independent voice, speaking for millions of Americans. Justice Anthony Kennedy’s retirement gives a once-in-a-generation opportunity to make our nation stronger...” [Faith and Freedom Coalition, accessed [7/10/18](#)]

###