

Amy Coney Barrett: Here's What You Should Know

Considering a nominee when an election has begun is dangerous to our democracy and to the Court itself. The public's trust in the Supreme Court as an institution is already eroding, especially among communities of color. If the U.S. Senate rushes to confirm a nominee before the next President is sworn in, the public's trust in the Court as an institution – and in Congress – will erode even further.

With the death of Justice Ginsburg, it is not an exaggeration to say that we are at a dangerous precipice. Trump promised to nominate only justices who would overturn *Roe v. Wade* and dismantle the Affordable Care Act (ACA). Trump has delivered on that promise by nominating Amy Coney Barrett. Amy Coney Barrett's record demonstrates she is a dangerous, extremist nominee who would clearly jeopardize our fundamental right to equality—in health care, in schools, at work.

President Trump's nomination of Amy Coney Barrett puts women's constitutional rights at risk. The future Barrett is aiming for would decimate the right to bodily autonomy, rescind health care for those who need it most, turn back protections for survivors of sexual harassment, and undo decades of progress for LGBTQ+ communities and people of color. Before joining the Seventh Circuit, she already represented an extreme set of views, and her record on the Circuit court includes signaling support for abortion restrictions, using discrimination laws as a sword against efforts toward equity, and signing off on harmful and discriminatory workplace practices. Amy Coney Barrett has already shown us what kind of justice she would be -- and it's one that would undermine everything that Justice Ginsburg stood for.

Abortion

- If she is confirmed, Barrett will provide a fifth vote to eviscerate the constitutional right to abortion or will vote to overturn it completely.
- Barrett's record as a judge demonstrates that she would permit a range of restrictions on abortion.

o She indicated support of a previability abortion ban that directly contradicts Supreme Court precedent. It would have prohibited women from obtaining an abortion after a fetal diagnosis. It also would have forced doctors to pry into women's personal decisions based on racial and ethnic stereotypes (*Planned Parenthood of Indiana and Kentucky v. Indiana State Department of Health*). When the case later was considered by the Supreme Court, her views aligned with Justice Thomas, who does not believe in the constitutional right to abortion.

o She would force young people to tell their parents about their decision to have an abortion, even if a judge has determined that they are mature enough to make the decision. (*Planned Parenthood of Indiana and Kentucky v. Box*). This view was in direct contravention of longstanding U.S. Supreme Court precedent and ignored the experiences of young people seeking abortion care.

- Although she voted to uphold a law protecting patients from anti-abortion harassment, Barrett made it very clear that it was only because she was bound by prior Supreme Court precedent. (*Price v. Chicago*)
- Barrett's scholarship before becoming a judge shows her hostility to *Roe v. Wade* and her view that Justices should overturn cases they do not agree with.

o She asserted in an [2013 article](#) that the "public response to controversial cases like *Roe* reflects public rejection of the proposition that stare decisis can declare a permanent victor in a divisive constitutional struggle."

o In that same article, she wrote that, in her view, it is legitimate for Justices to overturn precedents that they think conflict with their interpretation of the Constitution.

Birth control

- Amy Coney Barrett's position on birth control is dangerous for our country.
- She has publicly aligned herself with extreme, anti-science beliefs about birth control.
- Before joining the Seventh Circuit, Barrett [signed a letter](#) written by the Becket Fund, criticizing the birth control benefit under the Affordable Care Act as a "grave infringement on religious liberty," and publicly aligning herself with inflammatory, anti-science language conflating emergency contraception and medication abortion. Emergency contraception is critical care for people who want to prevent pregnancy after a birth control failure or sexual assault.

Affordable Care Act

- If Barrett is confirmed, there is every reason to believe she will vote to get rid of the Affordable Care Act.
 - o In an [2017 essay](#), Barrett criticized Chief Justice Roberts' decision to uphold the Affordable Care Act in *NFIB v. Sebelius*, saying it pushed the ACA beyond "its plausible meaning to save the statute." She signaled support for the dissent's view, which would have invalidated the ACA.
 - o In a [2015 NPR interview](#), Barrett expressed disagreement with the Supreme Court's majority opinion in *King v. Burwell* where the Court upheld a key component of the ACA, saying the dissent had "the better of the legal argument."

- A week after the election, the Court will hear a case challenging the constitutionality of the ACA. If Barrett were to be confirmed, access to health care for at least 20 million people in this country will be in immediate jeopardy. And so much more is on the line, particularly for women.
- Protections for people with pre-existing conditions, including the nearly seven million who tested positive for COVID-19 in the U.S., Medicaid expansion, preventive services, and protections against discrimination in health care, are all at stake.
- If confirmed, Amy Coney Barrett will determine whether the ACA stands, or whether health care gets taken away from millions during the most devastating pandemic in modern history.

Education

- If confirmed to the Supreme Court, we know that Barrett would rule against protections for survivors in schools.
- Barrett has made it easier for students who are held accountable for sexual assault to sue their schools for sex discrimination. She suggested that a school's commitment to taking sexual misconduct seriously is evidence of sex discrimination against men. (*Doe v. Purdue University*)
- This is not a theoretical concern since the Department of Education is weakening protections against sexual harassment in schools and the Supreme Court is likely to determine whether schools can take meaningful action to address and prevent sexual harassment.
- And while the Supreme Court ruled last term that laws protecting against sex discrimination at work prohibit employers from discriminating on the basis of sexual orientation or gender identity, some are arguing that schools can nevertheless discriminate on the basis of sexual orientation or gender identity. Barrett has expressed skepticism that protections against sex discrimination in education require schools to treat transgender students according to their gender identity.

Employment

- If given the opportunity, Barrett would make it harder for workers to assert their civil rights.
- Barrett signed off on a workplace practice that racially segregated employees. Judge Barrett endorsed rejecting the Supreme Court's longstanding proposition—dating back to *Brown v. Board of Education*—that racial segregation inherently carries the unique stigma of dignitary harm, and instead requiring employees to identify adverse employment actions above and beyond a racially segregated workplace. (*EEOC v. AutoZone*)
- Barrett also voted in favor of barring a job applicant's age discrimination claim in a case that cut off all job applicants in the 7th Circuit from critical protections under the Age Discrimination in Employment Act (ADEA). She concluded that the ADEA does not protect job applicants from hiring practices that have a discriminatory impact on older workers, even though the ADEA exactly mirrors federal law's protections against employment practices that have a discriminatory impact on employees or job applicants on the basis of race, sex, or religion. (*Kleber v. Care Fusion Core*)

Economic Justice

- Barrett's addition to the Court would mean another vote to rubber-stamp this administration's relentless efforts to take away federal benefits that help people meet basic needs from those who need them.

- Barrett believed that the Trump Administration’s discriminatory and punitive “public charge” rule was lawful. (*Cook County v. Wolf*)
- This harmful rule would further discourage immigrants from accessing basic healthcare or housing or nutrition assistance for which they are eligible, for fear of being separated from their family if they receive benefits.