

DEMAND JUSTICE

FACT SHEET ON AMY CONEY BARRETT

Trump's anti-ACA, anti-Roe pick would dramatically shift the Court's balance of power even further to the right

Amy Coney Barrett is a far-right, activist judge whose confirmation would threaten to upend the lives of millions of Americans by ending the Affordable Care Act and *Roe v. Wade*.

ACA

The Supreme Court is currently considering a case in which the justices could strike down the Affordable Care Act in its entirety, ending protections for Americans with preexisting conditions and kicking millions off their health insurance. Barrett has repeatedly signaled that she would support lawsuits to overturn the Affordable Care Act:

- Barrett criticized Chief Justice Roberts for his opinion in *NFIB v. Sebelius*, which upheld the ACA against a constitutional challenge, [saying he](#) “pushed the Affordable Care Act beyond its plausible meaning to save the statute.”
- In a [2015 NPR interview](#), Barrett expressed disagreement with the Supreme Court’s majority opinion in *King v. Burwell*, the second case in which the Court upheld the ACA, saying the dissent had “the better of the legal argument.”

Roe v. Wade

Barrett was the [favorite choice](#) of anti-choice activists because she has made clear that she does not respect the constitutional right to an abortion and would seek to overturn *Roe v. Wade* and curtail reproductive freedom.

- In a 2003 article, she [suggested](#) *Roe v. Wade* was an “erroneous decision.”
- In [that article](#), Barrett wrote, “Courts and commentators have... thought about the kinds of reliance interests that justify keeping an erroneous decision on the books” -- and the only decision she cited as an example of an “erroneous decision” was the *Planned Parenthood v. Casey* Supreme Court decision that specifically reaffirmed *Roe v. Wade*.
- In another article, Barrett [gave examples](#) of “cases that no justice would overrule, even if she disagrees with the interpretive premises from which precedent proceeds”—but did not list *Roe*.

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- In 2018, the U.S. Court of Appeals for the Seventh Circuit [struck down](#) an Indiana law that would have prohibited abortions at any time during a pregnancy based on the reason a person is seeking an abortion. The court held that the law “clearly violate[d] well-established Supreme Court precedent.” Barrett went on record saying she [disagreed](#) with the court’s ruling and strongly suggesting that the law was, in fact, constitutional.
- In 2019, the Seventh Circuit struck down another blatantly unconstitutional law which would have required anyone under 18 to notify their parents prior to receiving an abortion, without exception. Barrett would have [allowed the law to go into effect](#).
- She was a member of Notre Dame University’s anti-abortion Faculty for Life.
- Sen. Josh Hawley [said](#) that he would only vote for justices who have said that *Roe v. Wade* was wrongly decided and that Barrett “meets that standard.”
- Barrett signed an [open letter](#) that criticized the Affordable Care Act’s birth control benefit as an “assault on religious liberty” and referred to common birth control methods as “abortion-drugs” and “embryo-destroying ‘five day after pill.’”

Workers’ Rights

Barrett has a troubling track record of siding with companies that engage in discrimination. Her record raises serious questions about how she would approach workers’ rights and civil rights issues on the bench.

- Barrett has ruled for [corporations over people 76%](#) of the time.
- Barrett [upheld](#) a ruling that allowed a company to “intentionally assign members of different races to [work at] different stores.” In a dissent, one judge [called it](#) a “separate-but-equal arrangement” and said it was “contrary to the position that the Supreme Court has taken in analogous equal protection cases as far back as *Brown v. Board of Education*.”
- Barrett [ruled](#) that a company had not engaged in illegal age discrimination by having a maximum number of years of experience for a job posting, even though the requirement severely disadvantaged older workers.
- Barrett [dismissed](#) a case brought by two employees against an employer who they claimed improperly fired them. The employees attempted to utilize the employers’ arbitration process, but eventually sued in court because the process had been stalled for years. Barrett’s dismissal kicked the employees out of federal court.

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Gun Safety

Barrett's record raises serious concerns about how she would approach gun safety laws. Last year, she [dissented from a decision](#) upholding a longstanding federal law that banned people who had been convicted of felonies from possessing firearms, suggesting she takes a radical view on gun safety that could also lead her to strike down other, common-sense gun safety measures.

Immigrant Justice

Barrett has repeatedly ruled against the rights of immigrants, siding with the Trump administration on its public charge rule and repeatedly voting for overly harsh interpretations of immigration law.

- Barrett voted to let the Trump administration impose a so-called “public charge” rule that would have prevented immigrants from receiving legal permanent residence status if they had availed themselves of certain public benefits to which, by law, they were entitled. The Trump rule vastly expanded the definition of “public charge,” thereby expanding the universe of immigrants who were deemed ineligible for legal permanent residence.
- Barrett [wrote the majority opinion](#) rejecting an El Salvadoran immigrant's request for protection from deportation. Though the immigrant in the case fled to the U.S. because he was the target of gang violence in his home country, his request for protection was rejected based on what the dissent described as “minor” and “trivial” inconsistencies in his testimony.
- Barrett wrote an opinion [dismissing the case](#) of a U.S. citizen who claimed his due process rights were violated when a consular official denied his spouse a visa based on unsubstantiated and contradicted allegations of wrongdoing.
- Barrett [cast the deciding vote](#) to allow for the immediate deportation of a legal permanent resident who had lived in the United States for over thirty years but who became deportable simply because of an arcane, and since-repealed, federal law that treats children of naturalized mothers and children of mothers who are citizens by birth differently.

LGBTQ+ Rights

Barrett's track record suggests she could be on the side of reversing decades of progress when it comes to LGBTQ+ rights, a fact made all the more troubling by her stated willingness to disregard precedent when it conflicts with her own analysis.

- She has [defended the Supreme Court's dissenters on the landmark marriage equality case of Obergefell v. Hodges](#), questioning the role of the court in deciding the case.

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- She has [said Title IX protections do not extend to transgender Americans](#), claiming it's a "strain on the text" to reach that interpretation.
- She has [misgendered transgender people](#), referring to a transgender woman as "physiological males," while casting doubt on transgender rights.
- She has been paid \$4200 for addressing a legal group affiliated with [Alliance Defending Freedom](#), a group that advocates have called "[arguably the most extreme anti-LGBT legal organization in the United States.](#)"

Partisan Ties

Barrett has been a loyal footsoldier in the Republican Party's attempts to subvert the democratic process in the interest of partisanship, working on the *Bush v. Gore* case and defending Republicans' choice not to fill a Supreme Court vacancy during President Obama's term in office.

- Barrett started her legal career [working to win the 2000 presidential election for George W. Bush](#). She describes *Bush v. Gore* as one of the most significant legal activities she has pursued. She even spent time in Florida researching and briefing the case.
- Trump promised before his election in 2016 that his judges would all be "[picked by the Federalist Society](#)." Barrett was a member of the Federalist Society from 2005 to 2006 and [rejoined](#) the group in 2014, citing "the opportunity to speak to groups of interested, engaged students on topics of mutual interest." A mere three years later, she was nominated by President Trump to serve on the U.S. Court of Appeals for the Seventh Circuit and within eleven months, she was added to Trump's Supreme Court shortlist.
- In 2016, Barrett took to the airwaves to defend the Republican Party's [unprecedented decision to block President Obama](#) from choosing a replacement for the late Justice Antonin Scalia. After tersely reviewing the history of election-year Supreme Court nominations, distinguishing each example that failed to support the GOP's position, she concluded that "the president has the power to nominate and the Senate has the power to act or not."

Substituting Her Own Views Over Binding Precedent

Barrett's radical views are all the more dangerous because she has made clear she would *not* be bound by the traditional principle that Supreme Court justices should defer to precedent set by past Supreme Court decisions. Barrett would be a dangerous Supreme Court justice because she would substitute her own views for long-standing law.

- Barrett [wrote](#) that Supreme Court justices should not follow precedent they disagree with, but instead have "a duty" to substitute their own "best understanding" of the Constitution.
- The [Los Angeles Times](#) noted that Barrett has been "unusually frank in her support for overturning precedents that are not in line with the Constitution."