



NARAL
Pro-Choice America

Freedom of Choice Act (FOCA)

Following the Supreme Court's closely divided decision to uphold the first-ever federal ban on abortion in 2007¹, it became clear that the stakes changed and the right to choose was facing a new level of assault. That's why the pro-choice community supports the Freedom of Choice Act (FOCA) – a measure that would codify *Roe v. Wade*'s protections and guarantee the right to choose for future generations of women.

- Recognizing that a woman's right to choose is being chipped away both by the courts and state lawmakers, the pro-choice community – led by Sen. Barbara Boxer (D-CA) and Rep. Jerry Nadler (D-NY) – has been working to enact a federal law² that would restore the right to choose as expressed in 1973 in *Roe v. Wade*.
- Since *Roe v. Wade* was decided, a woman's right to choose has been systematically eroded by anti-choice legislators in states around the country. In fact, between 1995 and 2015, states enacted over 870 anti-choice measures³, essentially rolling back this fundamental right for many women.
- With a woman's right to choose already in a precarious state, Former President Bush's appointment of John Roberts (2005) and Samuel Alito (2006) to the Supreme Court further threatens the constitutional protection for reproductive rights – a threat immediately made evident in the court's ruling in *Gonzales v. Carhart*, *Gonzales v. Planned Parenthood Federation of America*, *McCullen v. Coakley*, and *Burwell v. Hobby Lobby Stores, Inc.*
- In the *Carhart* decision, the newly reconfigured court – with Bush's appointees Roberts and Alito casting decisive votes – upheld the first-ever federal ban on a safe abortion method – with criminal penalties for doctors.⁴ More troubling, the decision effectively reversed Supreme Court precedent and rolled back key protections that were guaranteed by *Roe v. Wade*, including the long-standing exception safeguarding women's health.
- Dissenting in *Carhart*, Justice Ginsburg called the majority's opinion "alarming," and stated that "[f]or the first time since *Roe*, the court blesses a prohibition with no exception safeguarding a woman's health."⁵ Further, she said, the federal ban "and the court's defense of it cannot be understood as anything other than an effort to chip away at a right declared again and again by this court."⁶

- By enacting FOCA, we would establish a federal law guaranteeing reproductive freedom for future generations of American women. This guarantee will protect women's rights no matter who occupies the White House, sits on the Supreme Court, or is in control of Congress.

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Notes:

¹ *Gonzales v. Carhart* and *Gonzales v. Planned Parenthood Federation of America*, 550 U.S. 124 (2007).

² S.1173, 110th Cong (2007); H.R.1964, 110th Cong. (2007).

³ NARAL Pro-Choice America & NARAL Pro-Choice America Foundation, *Who Decides?: The Status of Women's Reproductive Rights in the United States* (25th ed. 2016), available at www.WhoDecides.org.

⁴ *Carhart/PPFA*, 550 U.S. 124 (2007).

⁵ *Carhart/PPFA*, 550 U.S. 124 (2007). (Ginsburg, J., dissenting).

⁶ *Carhart/PPFA*, 550 U.S. 124 (2007). (Ginsburg, J., dissenting).