



## Freedom Of Choice Act (FOCA)

Following the Supreme Court's closely divided decision to uphold the first-ever federal ban on abortion<sup>1</sup>, it is clear that the stakes have changed and the right to choose is facing a new level of assault. That's why the pro-choice community is working to guarantee the right to choose through the Freedom of Choice Act (FOCA) – a measure that will 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) – is working to enact a federal law<sup>2</sup> that would restore the right to choose as expressed in 1973 in *Roe v. Wade* and *Doe v. Bolton*.
- 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, more than 500 anti-choice measures have been enacted in the states since 1995<sup>3</sup>, essentially rolling back this fundamental right for many women.
- With a woman's right to choose already in a precarious state, President Bush's appointment of John Roberts and Samuel Alito 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* and *Gonzales v. Planned Parenthood Federation of America*.
- 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.<sup>4</sup> 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.”<sup>5</sup> 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.”<sup>6</sup>
- By enacting FOCA, we will 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 or is in control of Congress.

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

<sup>2</sup> S.1173, 110<sup>th</sup> Cong (2007); H.R.1964, 110<sup>th</sup> Cong. (2007).

<sup>3</sup> NARAL PRO-CHOICE AMERICA FOUNDATION, *Who Decides? The Status of Women's Reproductive Rights in the United States* (18th ed. 2009), available at [www.prochoiceamerica.org/whodecides](http://www.prochoiceamerica.org/whodecides).

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

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

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