



## **Brian Buescher**

President Trump nominated Brian Buescher to serve on the U.S. District Court for the District of Nebraska on October 10, 2018. Buescher is anti-choice.

### **Career<sup>1</sup>**

- Bachelor of Arts, University of Nebraska, 1997
- Juris Doctorate, Georgetown University Law Center, 2000
- Associate, Kutak Rock LLP, 2000-2007
- Partner, Kutak Rock LLP, 2007-present

### **Record on Choice-Related Issues**

- Buescher ran for the office of Nebraska Attorney General in 2014. Throughout the campaign, he highlighted his staunch anti-choice beliefs and his loyalties to the Republican Party.
    - In a video done by the Nebraska Family Alliance, Buescher said:
      - “I am an avidly pro-life person. And I will not compromise on that issue. That’s just simply my moral fabric and that’s what I’ll do as attorney general. When regulating abortion, my view is this, we should regulate abortion as much as we possibly can. I’m in favor of banning abortion. Unfortunately, under the *Roe v. Wade* law, or case, and its prodigy, that is not possible, to ban abortion right now. So what I believe we should do is we should assess the situation and try to enact laws that go as far as we can without being invalidated, so in other words, we need to make sure our laws have a chance of being upheld by the courts. Because if not, we’re really kind of wasting our time because if it’s invalidated, then the law doesn’t ever get enacted. So what we do it we go after abortion bit by bit.”
- He continued, “Freedom of conscience is the ability of a medical professional to object to certain medical treatments that maybe the federal government maybe wants a medical professional to provide. And I believe strongly in the freedom of conscience. A medical professional should not be required to perform services that are directly against their religious beliefs and liberties. And I’m in favor of the state government and the federal government providing

protections to medical professionals and others who for reasons of conscience or reasons of religious beliefs, do not wish to perform certain services. In particular, I'm concerned about this issue when it comes to abortion. No doctor or no other professional should be required to provide abortion services because quite frankly, they're just immoral."

- Buescher was endorsed by Nebraska Right to Life during his 2014 run.<sup>2</sup> In a Right to Life candidate survey, Buescher indicated that he:<sup>3</sup>
  - Believes abortion should be legal "only to prevent the death of the mother." He specifically noted that he does not believe abortion should be legal "in cases of rape or incest and in cases of forcible rape reported to law enforcement authorities."
  - "Support[s] reversing or changing the *Roe v. Wade* and *Doe v. Bolton* decisions so that elected legislative bodies (State Legislatures and U.S. Congress) may once again protect unborn children by limiting and/or prohibiting abortion."
  - "Support[s] banning the use of public facilities, employees, or funds for the performance of or referral for abortion."
  - "Support[s] defunding federal and state tax dollars from organizations such as Planned Parenthood."
  - "Support[s] legislation that would remove from Obamacare the funding of elective abortions."
  - "Support[s] legislation that would restrict the further expansion of abortion through administrative actions by various federal entities under Obamacare."
  - Supports TRAP laws that place burdensome restrictions on abortion providers
  - Supports banning biomedical research using "human embryonic stem cells [or] somatic cell nuclear transfer."
- In another questionnaire, Buescher espoused even more extreme anti-choice views:<sup>4</sup>
  - When asked if it is ever "permissible to intentionally abort a baby to 'save' the life of a mother despite the fact that directly killing a baby has never 'saved' a mother," Buescher answered "no."
  - Buescher answered that he is "publicly and personally against all abortions" and believes that "at the moment of either natural or artificial fertilization there is a living, unique, and unrepeatable human being present in either the womb or in vitro."
  - Buescher answered that he "would support an effort that would definitively protect all life from fertilization to natural and unaided death." "Personhood" laws like the ones supported by Buescher would

make abortion illegal in almost all cases and would ban some of the most common forms of contraception, as well as stem-cell research and *in vitro* fertilization.

- Buescher pledged to support legislation to strike down the Affordable Care Act's landmark contraceptive-coverage policy, the greatest advancement to reproductive healthcare in a generation.
  - Buescher pledged to support anti-choice activists who harass abortion providers and patients outside of clinics.
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- In a candidate questionnaire, Buescher asserted: "I am a life-long pro-life Republican who has been active in conservative causes for over 20 years. I have served as Chairman of the Douglas County Republican Party, and Chair of the Nebraska Republican Party Finance Committee, among many other party offices. I have repeatedly provided assistance to conservative candidates. Voters can depend on me to be a conservative while in office."<sup>5</sup> He also said, "I am pro-life and believe an unborn baby is a unique human being."<sup>6</sup>
  - Buescher's campaign website promised to "protect the unborn."<sup>7</sup>
  - Buescher promised that his "personal principles" would be "important and considered in decisions [he would] make" as Attorney General.<sup>8</sup>
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- Buescher filled out a 2009 survey for Nebraska Right to Life while running for a county council seat.<sup>9</sup> He took many of the same positions from the 2014 survey, though some were even more extreme:
    - Buescher said he believes abortion should be legal "only to prevent the death of the mother." He specifically noted that he does not believe abortion should be legal "in cases of rape or incest and in cases of forcible rape reported to law enforcement authorities."
    - Buescher said he "support[s] the complete reversal of *Roe v. Wade* and *Doe v. Bolton*, thereby allowing state legislatures and Congress to once again protect unborn children."
    - Buescher said he "support[s] banning the use of public facilities, employees, or funds for the performance of or referral for abortion."
    - Buescher said he "support[s] banning the use of public funds for organizations like Planned Parenthood, the largest providers and promoter of abortion in the U.S."
    - Buescher said he supports TRAP laws that place burdensome restrictions on abortion providers.
    - Buescher said he supports "banning the funding and creation of school-based health clinics in public schools which could counsel and refer for abortion."
    - Buescher said he supports banning the "sale, purchase, research and/or transportation of...human embryonic stem cells, either multiple frozen

embryos created through in vitro fertilization or embryos created for the express purpose of medical research.”

- Buescher said he would “support a pro-life plank in [the] county, state, and national political party platform.”
- Buescher was a delegate at the Republican National Convention in 2016 and praised Trump’s selection of Mike Pence as his running mate, calling Pence “a reliable voice on social issues, such as abortion.”<sup>10</sup>
- Buescher has donated to anti-choice candidates Lee Terry and Adrian Smith, as well as the Republican Party of Nebraska.<sup>11</sup>
- Buescher has been a member of the conservative, anti-choice Federalist Society.<sup>12</sup> The Federalist Society is led by Leonard Leo, the anti-choice activist who is heavily involved in selecting Trump’s Supreme Court and lower court nominees. Leo has been outspoken in his anti-choice views, calling abortion “an act of force” and “a threat to human life,”<sup>13</sup> and serves as co-chairman of Students for Life,<sup>14</sup> a group whose mission is to “abolish abortion.”<sup>15</sup>

### **Record on Other Key Issues**

- In one candidate questionnaire, Buescher disparaged LGBTQ rights, asserting, “I believe marriage is a union between a man and a woman. I do not believe homosexuality should be considered the same way race or ethnicity is considered with regard to anti-discrimination laws which currently apply to race or ethnicity.”<sup>16</sup>
- In a video by the Nebraska Family Alliance, Buescher said: “I believe marriage is between a man and a woman, and that’s the way the government should act, should recognize marriage. The concern I have is the patchwork of laws that have happened around the country with some states recognizing gay marriage, some states not, some states recognizing civil unions, some states not, I have a concern at how we’re going to enforce that situation as attorney general. My view though, is this: Nebraska law is clear. Marriage is between a man and a woman and that is the way I will enforce the law in Nebraska with regard to that issue. And I believe going forward, that issue probably will come to the forefront in Nebraska and elsewhere, and I will defend traditional marriage as attorney general.”<sup>17</sup>
- Buescher promised to challenge the Affordable Care Act in court, pledging to “focus on fighting Obamacare” if he won the Attorney General race.<sup>18</sup>

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- <sup>1</sup> *Questionnaire for Judicial Nominees: Brian Craig Beuscher*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, <https://www.judiciary.senate.gov/imo/media/doc/Buescher%20SJQ.pdf>
- <sup>2</sup> *2014 Survey for State Candidates*, NEBRASKA RIGHT TO LIFE POLITICAL ACTION COMMITTEE, <http://nebraskarighttolife.org/wp-content/uploads/2014/05/NRTLVG1404updated.pdf> (last visited November 26, 2018)
- <sup>3</sup> *2014 Survey for State Candidates*, NEBRASKA RIGHT TO LIFE POLITICAL ACTION COMMITTEE, <http://nebraskarighttolife.org/wp-content/uploads/2014/05/NRTLVG1404updated.pdf> (last visited November 26, 2018)
- <sup>4</sup> *Attachments to Questionnaire for Judicial Nominees: Brian Craig Beuscher*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, <https://www.judiciary.senate.gov/imo/media/doc/Buescher%20SJQ.pdf>
- <sup>5</sup> *State Attorney General – Republican Questionnaire*, [http://www.voterinformation.org/media/pdf/state\\_attorney\\_general.pdf](http://www.voterinformation.org/media/pdf/state_attorney_general.pdf) (last visited November 26, 2018)
- <sup>6</sup> *State Attorney General – Republican Questionnaire*, [http://www.voterinformation.org/media/pdf/state\\_attorney\\_general.pdf](http://www.voterinformation.org/media/pdf/state_attorney_general.pdf) (last visited November 26, 2018)
- <sup>7</sup> *Fighting for Nebraskans*, BRIAN BUESCHER FOR ATTORNEY GENERAL, <http://web.archive.org/web/20140505224827/http://www.brianbuescher.com:80/> (last visited November 26, 2018)
- <sup>8</sup> *State Attorney General – Republican Questionnaire*, [http://www.voterinformation.org/media/pdf/state\\_attorney\\_general.pdf](http://www.voterinformation.org/media/pdf/state_attorney_general.pdf) (last visited November 26, 2018)
- <sup>9</sup> *2009 Voter Guide and Candidate Survey*, NEBRASKA RIGHT TO LIFE, <http://nebraskarighttolife.org/wp-content/uploads/2013/06/2009primaryelectionvg.pdf> (last visited November 26, 2018)
- <sup>10</sup> *Some Nebraska GOP delegates praise Trump’s VP choice*, ASSOCIATED PRESS STATE & LOCAL (July 15, 2016)
- <sup>11</sup> *Open Secrets Donor Lookup: Brian Beuscher*, <https://www.opensecrets.org/donor-lookup/results?name=brian+buescher> (last visited November 26, 2018)
- <sup>12</sup> *Questionnaire for Judicial Nominees: Brian Craig Beuscher*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, <https://www.judiciary.senate.gov/imo/media/doc/Buescher%20SJQ.pdf>
- <sup>13</sup> Jeffrey Toobin, *The Conservative Pipeline to the Supreme Court*, THE NEW YORKER (April 17, 2017), <https://www.newyorker.com/magazine/2017/04/17/the-conservative-pipeline-to-the-supreme-court>
- <sup>14</sup> *Board of Directors*, STUDENTS FOR LIFE, <http://studentsforlife.org/supporters/board-of-directors-1> (last visited July 5, 2018)
- <sup>15</sup> *Mission Statement*, STUDENTS FOR LIFE, <http://studentsforlife.org/about/mission-statement/> (last visited July 5, 2018)
- <sup>16</sup> *State Attorney General – Republican Questionnaire*, [http://www.voterinformation.org/media/pdf/state\\_attorney\\_general.pdf](http://www.voterinformation.org/media/pdf/state_attorney_general.pdf) (last visited November 26, 2018)
- <sup>17</sup> *Attachments to Questionnaire for Judicial Nominees: Brian Craig Beuscher*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, <https://www.judiciary.senate.gov/imo/media/doc/Buescher%20SJQ.pdf>
- <sup>18</sup> *State Attorney General – Republican Questionnaire*, [http://www.voterinformation.org/media/pdf/state\\_attorney\\_general.pdf](http://www.voterinformation.org/media/pdf/state_attorney_general.pdf) (last visited November 26, 2018)