



KRIPCHAK FOR CONGRESS YOUNGSTOWN

March 2024

SUBJECT: MY PROCLAMATION FOR WOMEN

March is a very special month. It heralds the beginning of spring and the renewal of life in our country. It reminds us of how far we've come from the cold, dark days of winter yet urges us on to welcome the ever warmer and ever brighter days of summer. So it is quite apt for March to be Women's History Month for it reminds us of how far we've come in advancing progress for women but also urges us on for the work still to be done to achieve full equality. It is on this note that I wish to reflect what this month means to me, my campaign, and for 51% of Americans whom I treasure deeply.

As I've said many times on the campaign trail: too many people have died to get us where we are today for us to hand over our Union to authoritarian forces who want to divide and conquer our Nation. Whether it's Vladimir Putin with Russian Orthodoxy, Xi Jinping with Confucianism, or Donald Trump with Western Christianity, co-opting religion for oppressive means is the go-to tactic for tyrants the world over. Raised as a Roman Catholic, I am saddened by the perversion of our faith to trample on the rights of others; as an American, I am grateful for the Founding Fathers who had the wisdom and foresight to codify the First Amendment to prevent tyrants from using religion for nefarious means. Thus, the sanctity of life is extremely important to me and as life is a fundamental right under our Constitution, I will do whatever I can in my power to protect the life of all Americans and particularly the life of American Women.

My position on this matter is very simple and I state it without equivocation: **"A woman's body is NOT the domain of the Government"**.

The legal manifestation of this position is best represented by Ohio's recently constitutionally codified "Right to Reproductive Freedom with Protections for Health and Safety" amendment, i.e. Issue 1. This protects the Right to Life for all women while also ensuring the life of a viable fetus is maintained once it is able to survive outside the womb. To stress the point again, the medical exemptions to maintain a mother's life and health even in the later weeks of gestation – irrespective of fetal viability – are of primary importance. This law is a model for the Federal Government to follow if action should be required by Congress to protect women from those that would infringe on their rights. Thus, if the need arises to further advance this cause, I will support it; if an attempt to hinder, I will oppose.

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That being said, it is also important for Congress to work with the Executive Branch to claw back some of the recent advances of reactionary forces made on the judicial front. As a lawmaker, I will work with the Department of Justice and amici curiae to advance legal thought, maintaining the rights of women and the conservative principles of “a small and limited government.”

Below is an outline of my judicial thinking:

Life is a fundamental right along with liberty, the right to privacy, freedom of thought, conscience, and religion, as well as freedom of movement. These fundamental rights all pertain to a woman and her reproductive rights and thus are covered by the Equal Protection and Due Process clauses of the 5th and 14th Amendments.

I also believe that women meet the standards of “suspect classification” in that:

- a. women have been stigmatized, prejudiced against, and subjected to hostility throughout human history,
- b. being biologically and culturally distinct to men, they possess an “immutable trait”,
- c. given the recent SCOTUS decisions and State Government legislations, they are powerless to defend themselves via the political process,
- d. being women, their distinctive characteristics do not prevent them from meaningful contributions to society.

Given these two facts, and based on decades of legal precedent, any legislation concerning women must meet the “strict scrutiny” standard. This standard imposes the burden of proof on the Government to demonstrate that the law is a compelling interest for the Government, narrowly tailored, and the least restrictive means in achieving this interest.

The central question is how to balance the rights of the mother and the rights of the fetus. Prior to conception, these rights unequivocally lie with the mother. After conception there is a debate with this balance that trends toward the fetus later in the gestation period. However, given that both the courts of the Judicial Branch and the courts of public opinion carve out an exception for the life of the mother, this balance ultimately lies toward the mother and not the fetus. Since the balance of the Right to Life always tilts toward women throughout the reproductive timeline, the “compelling government interest” lies with the woman and not the fetus. Thus, any legislation protecting the unborn (a noble cause in its own right) must be subservient to the rights and desires of the mother lest the Government run afoul of the “compelling government interest” requirement of the “strict scrutiny” test.

The second requirement for “strict scrutiny” is that the law must be “narrowly tailored.” If a law is too broad and fails to address the specific aspects of a compelling interest, it fails the “strict scrutiny” test. We have already established above that the fetus’s rights are subservient to those of the mother’s thus this standard fails outright as it is not a compelling government interest when affecting a woman’s body (which by the very nature of pregnancy, it always

does). Summarily, defunding women’s healthcare organizations and limiting American women’s access to both medical information and medical treatment is a grave overreach of legislative power. The government has a compelling interest to protect the life of women thus **the government cannot make any distinction in the nature of medical care on the terms of public funding nor access.** With the aforementioned exception of Ohio’s Issue 1 in 2023, legislation that sufficiently tailors the protection of the rights of a fetus without infringing on the rights of a woman, which would satisfy the “narrowly tailored” requirement, are few and far between. Thus, **I will oppose all attempts to restrict or divert funds and access away from organizations that provide reproductive healthcare to women** – such actions are not narrowly tailored and cause an outsized harm to women’s healthcare in general.

Finally, “strict scrutiny” states that if there is a less restrictive way to address a compelling interest then the law will be deemed unconstitutional. I fully support the reduction of abortions and in light of the “least restrictive means” requirement, I am reminded of the phrase, “an ounce of prevention is worth a pound of cure.” Thus, **I will support any legislation that protects and expands the access and coverage of reproductive healthcare demanded and requested by women and organizations to these causes.** Expanding healthcare to all Americans is one of my many priorities and reproductive healthcare for women is no exception.

More broadly, on the conduct of medical professionals toward their patients, I am aware that those who will find my judicial philosophy objectionable will counter that content-based commercial restrictions on speech only need to satisfy an “intermediate scrutiny” standard. Also, reproductive healthcare is a form of sexual discrimination and only subject to “intermediate scrutiny.”

To these objections I remind the reader that imposing restrictions on what medically accepted practices are or are not available is not “content neutral” nor do such restrictions provide “ample opportunities of communication between a doctor and patient.” With our progress on HIPAA and patient privacy rights, Congress has demonstrated the importance to legislate the protection of patients’ privacy rights. Thus, even by the “intermediate scrutiny” standard, it would be inappropriate for Congress to restrict healthcare access to women as any enforcement of such a law would necessarily violate the privacy rights enshrined in both the Constitution and US Code.

As a final point, I concede that the intermediate scrutiny standard applies to sexual discrimination as it is not a fundamental right covered by the 14th Amendment. Even if anti-women legislation surrounding women’s rights still does not pass intermediate scrutiny standards, I have a vested interest in correcting this standard. Therefore, **I will support any action to revive and advance the Equal Rights Amendment so that the Constitution enshrines women’s rights to its rightful place as a fundamental right.**

The voters deserve to know whether their Congressional candidates have the empathy, intellect, and temperament to adequately represent them in Congress. I hope that with this missive, I have done just that by outlining my views and adequately articulating my philosophy so that YOU, the voters, can make an informed decision on whom you will choose to represent you in Congress.

Very respectfully,

A handwritten signature in black ink, appearing to read 'MK', followed by a long horizontal line extending to the right.

MICHAEL L. KRIPCHAK
Candidate
US Congressional District 6, OH