

Opinion | What to expect during Kavanaugh's confirmation battle

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By Allen Mendenhall

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It's official: President Trump has nominated Brett Kavanaugh to succeed Justice Anthony Kennedy as an associate justice on the U.S. Supreme Court.

Kavanaugh has served on the D.C. Circuit since 2006. A graduate of Yale and Yale Law, he clerked for the man he's been chosen to replace, and for legal legend Alex Kozinski. He twice worked for Ken Starr, first as a fellow in the U.S. Solicitor General's Office and later in the Office of Independent Counsel. He's known in D.C. circles and among Republicans and will be difficult to portray as an ideologue or extremist.

Republican presidents have struggled with Supreme Court nominations. Kennedy became a justice only after President Reagan's failed nomination of Robert Bork, followed by Douglas Ginsburg's admission of past drug use that resulted in his withdrawal from consideration for a seat on the High Court.

Dwight D. Eisenhower nominated some of the most liberal justices in the Court's history, Earl Warren and William J. Brennan. Richard Nixon nominated Justice Harry Blackman, who authored the opinion in *Roe v. Wade* (1973). Gerald Ford nominated John Paul Stevens, who has, in retirement, advocated repealing the Second Amendment. George H. W. Bush nominated David Souter, and George W. Bush's selection of John Roberts, seemingly impeccable at the time, has disappointed many conservatives in light of cases like *National Federation of Independent Business v. Sebelius* (2012), which alleged, among other things, that Obamacare's individual mandate to purchase health insurance was a "tax," not a "penalty."

Kennedy himself has cast votes in seminal cases with the left wing of the Court. That's what makes the present nomination so momentous: replacing Antonin Scalia with Gorsuch

preserved a conservative voting bloc, with Kennedy serving as the swing vote, whereas Kavanaugh could tip the balance: five conservatives (Roberts, Clarence Thomas, Samuel Alito, Neil Gorsuch, and Kavanaugh) against four liberals (Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor, and Elena Kagan).

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Senate Republicans will move quickly on Kavanaugh's nomination in hopes of making him a sitting justice by October, when the Supreme Court's next term commences, and before the 2018 midterm elections take place. Judicial Crisis Network has already announced a major ad campaign in states like Indiana and West Virginia with competitive midterm races.

Gorsuch was nominated on January 30, 2017, confirmed by the Senate on April 7, 2017, and took office on April 17, 2017. Two months and 17 days passed from when he was nominated to when he took office. If Kavanaugh's confirmation spans the same period, he will take office on September 23, 2018—just meeting the Republican's desired deadline.

Six key senators, however, could disrupt the process: Susan Collins (Republican, Maine) and Lisa Murkowski (Republican, Alaska), moderates who are generally pro-choice; Joe Donnelly (Democrat, Indiana) and Dean Heller (Republican, Nevada), who are campaigning for reelection in "purple" swing states this fall; Doug Jones (Democrat, Alabama), who must cast conservative votes if he wishes to retain his seat beyond 2021; and Joe Manchin (Democrat, West Virginia), who is up against the reliably conservative Patrick Morrisey, the former Attorney General of West Virginia, in the 2018 midterm election.

Each of these senators except Jones, who has never voted on a Supreme Court nominee, voted "yea" to confirm Gorsuch. Two Democratic senators in conservative states, Claire McCaskill of Missouri and Jon Tester of Montana, voted "nay" on Gorsuch and will likely do so again on Kavanaugh.

Only 12 nominees, historically, have been rejected by the Senate, and just four since the turn of the twentieth century. The odds are thus in Kavanaugh's favor, despite the rancorous political climate and threats of Democratic stonewalling. Last year conservatives worried that Gorsuch wouldn't gain support among moderates, but he was confirmed with a 54-45 vote after Democratic senators, mostly for show, attempted to filibuster his nomination.

In the following weeks we'll be immersed in contentious, constructive debates over Kavanaugh's extensive record, but it could be that the biggest battles over the judiciary are yet to come. The two oldest justices on the Supreme Court are Stephen Breyer, who turns 80 next month, and Ruth Bader Ginsburg, who is 85. Either could retire during President Trump's first term. If they don't, the Supreme Court will become the hottest political issue going into the 2020 presidential election—and many elections to come.

While "experts" like the United States' Ambassador to the United Nations Nikki Haley say it "is patently ridiculous for the U.N. to examine poverty in America," Alabamians know that what's actually ridiculous is the hundreds of thousands of Alabamians who live in poverty.

Haley's comments came in reaction to United Nations Special Rapporteur Philip G. Alston's examination of poverty in Alabama and a handful of other American states.

Alabama experts also failed to prioritize poverty and homelessness as a serious issue facing the state in the Public Affairs Research Council of Alabama's (PARCA's) Alabama Priorities poll. Those experts are business leaders, civic leaders, nonprofit and philanthropic leaders, political science professors, and political journalists.

In contrast, the Alabama voters PARCA surveyed ranked poverty and homelessness as the fifth most serious issue facing Alabama. Alabamians' concerns about poverty cut across party affiliation, ideology, age, gender, education, and income.

In order to educate both experts and the general public, Alabama Possible releases a poverty data sheet each year. We recently released our 2018 Alabama Poverty Data Sheet in June, and it highlights poverty, economic security, educational attainment, and food security.

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There is good news to share: **poverty is at its lowest rate** since we started publishing the Alabama Poverty Data Sheet in 2010. Just over 800,000 Alabamians live below the poverty line, which is \$24,257 for a family of four.

Those of us who are concerned about poverty can't rest, however. Alabama is still the sixth poorest state in the U.S., and 17.2 percent of Alabamians live below the federal poverty line. Fifteen of Alabama's 67 counties have a poverty rate higher than 25 percent. Eight counties have a poverty rate higher than 30 percent.

On top of high poverty rates, Alabama's median household income is not keeping up with the nation's. The typical Alabama household earned \$46,309 in 2016, which is \$11,308 less than the national median household income. That gap has grown by \$1,547 over the past five years.

No wonder we are concerned about poverty and homelessness. It is getting harder and harder for Alabamians to afford the cost of living.

We also can't overlook how our state's complicated racial history impacts poverty and economic opportunity. All eight of the counties with poverty rates above 30 percent are majority African American, and Alabama's median household income for African Americans is \$21,165 less than that of white families.

Alabama policymakers have focused on workforce development with good reason. Alabama faces two great hurdles: not having enough good jobs that support a family and not having enough qualified workers for the jobs we do have. That's why Alabama Possible supported the efforts of the Alabama Workforce Council in developing the Success Plus strategic plan.

Poverty is complex, and having an income is just part of the puzzle. What about hunger and food insecurity? Basic sanitation systems and clean water? Accessible, affordable mental and physical health care? The opportunity to vote?

Alabama doesn't have a plan to address these matters. What can we do about it?

Here's one idea: let's make it abundantly clear to "experts" that they should be worried about what we think of them, rather than what they think of us.

Use the data sheet to start conversations at your house of worship, in civic clubs and with your colleagues to think about how to better serve low-income people and break down multigenerational barriers to prosperity. Talk about why the issue is important to you; maybe you grew up poor, or you teach in a low-income school and see how the grinding reality of poverty impacts your students.

Don't forget that it is an election year, and there are plenty of opportunities to talk with candidates who want your vote. You can interact with them on social media, at candidate forums and even at the grocery store. Ask them how they intend to address poverty and homelessness.

And if anyone tries to blame the poor for their economic circumstances, or make excuses for why Alabama is so poor, you can do what Alabamians have done for generations: say "sez you."

Kristina is executive director of Alabama Possible, a statewide nonprofit organization that removes barriers to prosperity.

Alabama is moving quickly in developing a trained workforce that meets the needs of business, with major changes in recent years in how our workforce development system operates.

The process began four years ago when the Alabama Workforce Council recommended a realignment of our workforce programs. The Alabama Legislature responded by passing legislation to make the changes possible, and Gov. Kay Ivey, then lieutenant governor, fully supported these measures. Today, Alabama's workforce landscape is strikingly different.

One of the Alabama Workforce Council's recommendations was to reorganize the state's 10 workforce regions into seven. The Legislature approved funding for staff to run these councils, and these regional workforce directors work closely with the business community as well as the Alabama Department of Commerce, Alabama Community College System, K-12, the Alabama Department of Labor, the Career Center System and other related agencies, to identify and meet the needs of industry and workers. In addition, Commerce and the ACCS have assigned liaisons who link each region to workforce training and other resources.

The Legislature also required that at least 75 percent of the voting members come from the business community within each region. This raises the level of engagement with Alabama businesses.

Another significant change in the streamlining of workforce development was the realignment of the Workforce Innovations Opportunity Act program. The three local WIOA boards were expanded to seven and aligned with the seven workforce areas. Many business leaders from

around the state were appointed to the state's WIOA board and, in some areas, to the local boards. Again, this change has resulted in a more even approach to WIOA funding and a significant increase in business engagement across the state.

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In 2016, the Legislature approved the creation of Apprenticeship Alabama, designed to increase the number of apprentices to assist companies in building their pipeline of workers.

In its first year, 2017, Apprenticeship Alabama significantly increased the number of apprentices statewide. And while the modest tax credit was a new benefit to companies, the fact that there was an office dedicated to helping businesses register their programs with the U.S. Department of Labor enabled the program to grow. Navigating the waters of federal registration can be tedious, but the Apprenticeship Alabama staff, along with the regional councils, are dedicated to assisting companies with the expansion of this training program.

At first glance, the various components of workforce development appear to be separate entities with separate goals. When you look closer, however, they form the backbone of Gov. Ivey's recently announced AlabamaWorks Success Plus initiative.

The Success Plus education attainment initiative is the cornerstone of the governor's "Strong Start. Strong Finish" endeavor. Ivey announced that by 2025, Alabama MUST have 500,000 additional workers who have more than a high school diploma.

Many high schools and career technical programs offer students credentials that qualify within Success Plus. Some students involved in dual-enrollment programs with the ACCS receive not only a high school diploma, but an associate degree or certificate.

Without doubt, one of the most important factors in the development of Alabama's workforce system has the foresight and the work of the Alabama Workforce Council, a business-led advisory group for the governor, the Legislature and agency heads. Under the Chairmanship of Zeke Smith, from Alabama Power, the council has provided the sounding board needed by among business and state leaders and the vehicle for candid discussions about workforce development initiatives. The importance of the AWC cannot be understated.

Finally, workforce development in this state would not be complete without the work of AIDT. AIDT is Alabama's workforce training incentive program. It assists both existing businesses in expansion and new businesses moving to the state. AIDT is consistently ranked in the top three training incentive programs in the country, and we are extremely proud of our ranking. Day in and day out, AIDT staff are boots on the ground assisting more than 130 projects across the state helping fill thousands of jobs.

Of course, the best entry point to any job-seekers is the 50-plus Alabama Career Centers located strategically across Alabama, managed by the Alabama Department of Labor.

When you build a team, the goal is to be the best. This involves uniting team members who are good at a particular position. On their own, they may not make a significant impact. But working as a unit, they perform like a well-oiled machine. During the past four years, we've

been putting this team together, and we're seeing the fruits of our labor.

Why does this matter to you? Simply said, these changes, these new initiatives, program improvements and alignments will keep Alabama in the game for new industry and jobs. We must have an educated and skilled workforce for our businesses in the world to come.

For more information about these and other programs within Alabama's education and workforce infrastructure, visit www.alabamaworks.com.

Ed Castile is deputy secretary of the Alabama Department of Commerce and director of AIDT.

If you have turned on your television recently, you have probably heard about the ongoing immigration debate in our country. Here in Congress, it is an issue that has drawn much of our attention as well.

Since being elected to Congress, I have held two top principles when it comes to the immigration debate. First, I do not and will not support granting amnesty to those who are in our country illegally. Second, any immigration reform bill must start with a sincere and tangible effort to secure the border. Until the border is secure, any other immigration efforts would be in vain.

Recently, the House voted on two separate immigration bills that were designed to help crack down on illegal immigration. One bill, the Securing America's Future Act, earned my support. The bill included very strong border security provisions, made the E-Verify program mandatory, and satisfied President Trump's four pillars for immigration reform. Unfortunately, the bill failed by a vote of 193 to 231.

Another bill, the Border Security and Immigration Reform Act, failed to earn my support. The bill would have created a special pathway to citizenship for over 1.8 million illegal immigrants. The legislation would have unfairly allowed these illegal immigrants to jump in front of thousands who are waiting to come into our country the right way. Thankfully, the bill did not receive the support necessary to pass.

Despite the failure of these two bills, we must not give up in our efforts to secure the border, close loopholes in our immigration system, and ensure our immigration laws are fully enforced. This issue is far too important to the safety and security of the American people.

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The immigration issue has also hit close to home with reports that the Department of Homeland Security and the Department of Defense are considering housing up to 25,000 illegal immigrants at Navy outlying airfields in south Baldwin County.

I am working with local leaders and my Alabama colleagues to once again fight this flawed proposal tooth and nail. Housing anyone in tents on the Gulf Coast during the heat of summer and the heart of hurricane season would be inhumane and a major mistake. Not to mention that these airfields lack even basic infrastructure, such as running water, housing, or restroom facilities, to provide even basic needs for detained immigrants.

I also believe we need to return these illegal immigrants to their home countries as quickly as possible. It makes no sense to bring them so far away from the border when the ultimate goal is to return them to their home countries.

Another issue that has drawn national attention is the Trump Administration's zero tolerance policy, which says that anyone who crosses the border illegally will be prosecuted. I strongly support the policy because we are a nation of laws, and we must enforce the laws.

That said, like President Trump, I do not support separating children from their families at the border. This is why I have co-sponsored a bill from Senator Ted Cruz (R-TX) and Congressman Dave Brat (R-VA) that would allow families to stay together while speeding up the processing and review of asylum cases. The bill would also devote funding to double the number of federal immigration judges and authorize the construction of new temporary shelters close to the border to keep families together.

As we continue to crack down on illegal immigration and ensure our borders are secure, I welcome your ideas and feedback. These are complicated and difficult issues, but they are so critical to the future of our country. We cannot become a country with open borders and no rule of law.