



REFERENDUM

2023 General Election – Issue 1

The Right to Reproductive Freedom with Protections for Health and Safety

[Certified Ballot Language](#)

Amendment Language if Adopted by Voters:

Be it Resolved by the People of the State of Ohio that Article I of the Ohio Constitution is amended to add the following Section:

Article I, Section 22. The Right to Reproductive Freedom with Protections for Health and Safety

A. Every individual has a right to make and carry out one's own reproductive decisions, including but not limited to decisions on:

1. contraception;
2. fertility treatment;
3. continuing one's own pregnancy;
4. miscarriage care; and abortion.

B. The State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either:

1. An individual's voluntary exercise of this right or

2. A person or entity that assists an individual exercising this right, unless the State demonstrates that it is using the least restrictive means to advance the individual's health in accordance with widely accepted and evidence-based standards of care.

However, abortion may be prohibited after fetal viability. But in no case may such an abortion be prohibited if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health.

C. As used in this Section:

1. "Fetal viability" means "the point in a pregnancy when, in the professional judgment of the pregnant patient's treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures. This is determined on a case-by-case basis".
2. "State" includes any governmental entity and political subdivision.

D. This Section is self-executing.

Analysis by League of Women Voters of Ohio:

A "yes" vote supports amending the Ohio Constitution to:

- establish a state constitutional right to "make and carry out one's own reproductive decisions," including decisions about abortion, contraception, fertility treatment, miscarriage care, and continuing pregnancy;
- prohibit the state of Ohio from interfering with this constitutional right, except when the state demonstrates "that it is using the least restrictive means to advance the individual's health in accordance with widely accepted and evidence-based standards of care;"
- allow the state to restrict abortion after fetal viability, defined as "the point in a pregnancy when, in the professional judgment of the pregnant patient's treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures;" and
- prohibit the state of Ohio from banning abortion when, in the professional judgment of a physician, an abortion "is necessary to protect the pregnant patient's life or health."

A "no" vote opposes amending the Ohio Constitution to establish the constitutional right to "make and carry out one's own reproductive decisions." This, then, allows the General Assembly to pass legislation banning or restricting abortion and other reproductive decisions.

Pros:

1. This amendment would restore the rights and protections for Ohioans that were eliminated by the U.S. Supreme Court's 2022 decision (Dobbs v. Jackson Women's Health Organization) in which the court held that the U.S. Constitution does not confer a right to abortion.

2. The amendment would restore rights and protections for Ohioans that were guaranteed in 1973 by a U.S. Supreme Court decision (Roe v. Wade) that held the right to privacy under the 14th Amendment protected abortion as a fundamental right at least up until the time of fetal viability.

3. The amendment would establish that the doctor-patient relationship in Ohio ensures that individuals are empowered to make their own reproductive health decisions without interference from the government.

4. The amendment would establish that every individual in Ohio has the right to make reproductive decisions including but not limited to decisions on contraception, fertility treatment continuing one's own pregnancy, miscarriage care, and abortion. This is important for underserved populations, especially those with limited resources.

5. The amendment does not address gender affirming care issues.

6. The amendment does not address or change any laws involving parental rights over minors.

Cons:

1. The amendment would limit the ability of the Ohio General Assembly to regulate reproductive health decisions, including abortion, contraception, fertility treatment, continuation of pregnancies, and miscarriage care.

2. While the amendment says it allows a health exception for abortions after viability, it uses language that relies on the life or health of the pregnant person without independently providing protections for the fetus.

3. The amendment could only be changed by voters through a subsequent amendment.

4. The amendment states that "every individual" has the right to carry out one's own reproductive decisions. This language could be interpreted by courts to mean that "every individual" includes minors, thus giving the General Assembly the opportunity to extend the current parental consent laws on abortions to other reproductive healthcare decisions of minors.

5. The amendment states that reproductive decisions are "not limited to" contraception, fertility treatment, continuing one's own pregnancy, miscarriage care, and abortion without identifying other situations to which the amendment might apply.