

2023 General Election - Issue 1

The Right to Reproductive Freedom with Protections for Health and Safety

Explanation:

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 prohibit the Ohio General Assembly from regulating 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 has been interpreted by the courts to include mental, financial, and social health—making it effectively impossible to enforce any protections for the fetus.
3. The amendment could only be changed by voters through a subsequent amendment. The policy on abortion should not be in the state constitution, but in state laws.
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, threatening parental consent laws on the medical care 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. This "not limited" language could be interpreted to include gender affirming care.
6. The State of Ohio, through the elected members of the General Assembly, should be able to enact laws that attempt to protect fetal life as much as possible.