

# Ohio Supreme Court to hear arguments Wednesday about ban on most abortions

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As Ohioans prepare to vote on an abortion rights measure this November, the Ohio Supreme Court will review whether to reinstate a 2019 ban on most abortions in the state.

That GOP-backed law prohibits doctors from performing abortions after cardiac activity is detected, which is about six weeks gestation. Physicians who break that law face prison, lawsuits and loss of their medical license. After *Roe v. Wade* was overturned in 2022, Ohio's abortion ban took effect for 82 days before a Hamilton County judge put it on hold indefinitely.

Judge Christian Jenkins, a Democrat, ruled that "abortion is health care to which Ohioans have a right."

Ohio Attorney General Dave Yost, a Republican, appealed that decision. On Wednesday, the Ohio Supreme Court will listen to arguments on both sides of the abortion debate. If they rule in Yost's favor later this year, Ohio could reinstate its ban on most abortions.

The seven justices aren't deciding whether the Ohio Constitution protects abortion access; they punted on that question. Instead, they will review:

- whether abortion clinics can sue on behalf of their patients. The legal term is called "standing" and it could impact how abortion cases are litigated nationwide.
- whether Yost can appeal this case at all. Jenkins hasn't issued a final judgment, which is typically what triggers an appeal. The First District Court of Appeals ruled that Yost was skipping steps.

Wednesday's oral arguments come as Ohioans prepare to vote on November's Issue 1, which would enshrine abortion access in the state constitution. It's a reminder of the abortion restrictions that Ohio's GOP-controlled Legislature passed, which led to pregnant Ohioans seeking abortions out-of-state for nearly three months.

While *Roe v. Wade* was intact, most abortion policy disputes were filed in federal court. Now, many of those cases will end up in the Ohio Supreme Court – with a less established track record to prognosticate how justices might rule.

The Ohio Supreme Court is composed of four Republicans, including Chief Justice Sharon Kennedy, and three Democrats.

Justice Joe Deters recused himself because he was named in the initial lawsuit. As Hamilton County prosecutor, Deters might have been tasked with prosecuting illegal abortions. Judge Matthew Byrne, of the 12th District Court of Appeals, will fill in for Deters. Byrne served on the advisory board of Pregnancy Center East, an anti-abortion counseling center.

In 2018, the Ohio Supreme Court ruled against abortion clinics in Toledo and Cleveland. The clinic in Toledo no longer performs surgical abortions because of that decision, which three current GOP justices – Kennedy, Justice Pat Fischer and Justice Pat DeWine – signed off on.

More recently, the Ohio Supreme Court ruled that one part of the ballot language on the abortion rights amendment was inaccurate and needed to be changed but left most of the Republican wording intact. Fischer joined with three Democratic justices to order the tweak.

*This story will be updated.*