

Ohio ‘heartbeat’ law: Anti-abortion groups that backed it now keeping distance ahead of Nov. 7

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COLUMBUS, Ohio – Ohio Republicans and abortion opponents have spent years fighting for Ohio’s “heartbeat” law banning abortions as early as six weeks into pregnancy with no exceptions for rape or incest.

But now that they’re trying to convince voters to reject an abortion-rights amendment Nov. 7, they’ve begun to act like it doesn’t exist.

In campaign communications, [canvassing events](#) and television appearances, groups working to defeat State Issue 1 have been telling voters the abortion-rights amendment is unnecessary because abortion is legal in Ohio through 22 weeks. That’s functionally true, but it ignores that Gov. Mike DeWine signed a law in January 2019 that bans abortion when a fetal heartbeat can be detected, which is around six weeks into pregnancy.

The heartbeat law, which was enforced for 82 days after the U.S. Supreme Court overturned Roe v. Wade in June 2022, has been on hold for over a year because of an ongoing legal challenge. If that challenge fails – a marked possibility, given Republican control of the Ohio Supreme Court – the six-week ban would return. While the courts decide the heartbeat law’s constitutionality, the state law has reverted to the previous abortion cutoff of 22 weeks.

Anti-abortion activists have been obfuscating that fact, shifting the message they are projecting to voters in the final weeks of the campaign.

“You can have an abortion up to and through the fifth month of pregnancy – or right around the fifth month of pregnancy – for rape, incest, life of the mother or for choice,” said Mike Gonidakis, a top anti-abortion lobbyist in Ohio who has repeatedly [predicted the Ohio Supreme Court will uphold](#) the heartbeat law.

[Gonidakis was on WOSU Public Media’s](#) “Columbus On the Record,” last month. Host Mike Thompson tried to correct him.

“Hold on, that law has been superseded by the so-called heartbeat law which is on hold,” Thompson interjected. “And if a judge rules at that the six-week abortion ban is legal, it does not violate the Constitution – something you say it does not – it will go into effect, the six-week abortion ban.”

The comment from Gonidakis previewed a claim that subsequently showed up elsewhere. A news release from the anti-Issue 1 campaign earlier this week described the 22-week ban as current law in Ohio, saying Issue 1 would render it unenforceable. And canvassers for Students for Life told Ohio State University students last weekend that voting against Issue 1 “would keep abortion accessible up to 21 weeks and six days” while not mentioning the heartbeat law or the court battle surrounding it, Politico reported.

[Numerous polls](#) have shown Ohioans oppose the heartbeat law.

Issue 1 supporters say the proposed amendment, which would generally allow abortion through viability or around 22 to 24 weeks, would strike down the heartbeat bill. But Issue 1 opponents are trying to shift the terms of the debate, describing instead how it would affect the 22 week ban without mentioning the heartbeat bill at all.

The anti-abortion group’s message may confuse voters, said Desiree Tims, president and CEO of left-leaning Innovation Ohio, who said her opponent in a recent debate over Issue 1 made a similar claim about the status of abortion in Ohio, without mentioning the heartbeat law.

“I immediately called the claim out because it is misleading and it is part of the anti-abortion supporters’ campaign that is frankly riddled with misinformation to confuse voters,” she said. “The law is clear: The heartbeat bill that passed through the state legislature is about six weeks, and Gov. DeWine signed that legislation. And that is the law of the land. And the only reason it’s not enforced right now is because of the judge in Southwest Ohio, where there is a temporary pause.”

Tims noted that during the 82 days when the state enforced it, hundreds of girls and women left Ohio for abortions, [including a 10-year-old girl who](#) had been raped and received an abortion in Indianapolis.

However, Amy Natoce, a spokeswoman for Protect Women Ohio, says that its messaging seeks to correct inaccuracies of the other side.

“We are correcting a dangerous misinformation campaign coming from the groups supporting Issue 1,” she said. “Time and time again the pro-Issue 1 groups have resorted to fearmongering and deceit in their messaging and TV ads, lying to Ohioans about the availability of emergency miscarriage care and contraception, which is already available to Ohioans. And now they are lying about Ohio law, misstating Ohio’s current protections, and even telling voters that Ohio does not have an exception for the life of the mother. This fearmongering is unacceptable and puts women’s lives at risk.”

Terry Casey, a Republican strategist in Columbus, said he also sees signs of the “no” campaign trying to sow doubts over what the amendment would do. Voters often vote “no” when they’re confused about what an amendment would do, a dynamic referred

to as “status quo bias” that can be worth as much as 5-8 percentage points, [political science research has shown](#).

“There’s a lot of semantical confusion about the amendment, which might play into the no side, where creating doubt might lead people to a no vote,” Casey said.

Not all abortion opponents are on the same page when it comes to describing the 22-week abortion ban as the status quo in Ohio while overlooking the six-week ban that’s held up in court.

The Catholic Conference of Ohio, [in a FAQ flyer](#) that’s available on its website that also has been distributed at churches, tackles the question of whether abortion would be illegal in Ohio were Issue 1 to fail. It accurately and completely describes the legal status of the “heartbeat” law.

“If Issue 1 does not pass, abortion would still be legal in Ohio until a baby’s heartbeat can be detected,” the flyer says. “This standard was challenged in court and placed on hold, allowing for abortions up to 22 weeks as of September 15, 2023.”

Some in the anti-abortion movement also have found the talking point to be immoral. Lizzie Marbach, a former Ohio Right to Life staffer whose firing made headlines last month, said the approach suggests abortion opponents are OK with abortion five weeks into pregnancy, which she views as equivalent to murder.

“This is abhorrent. I’m truly in shock at how many lives you’re willing to sacrifice to your god of pragmatism,” Marbach wrote on X, the social media platform formerly known as Twitter earlier this month.

Nicholas Kallis, executive director of End Abortion Ohio, also disagrees with the anti-Issue 1 campaign’s communications.

“We don’t agree with a lot of the language that Protect Women Ohio is using,” he said. “We think they’re going too far into the middle. They’re not speaking plainly and consistently with our pro-life convictions.”

End Abortion Ohio would like a total abortion ban in the state. Kallis said the heartbeat ban doesn’t go far enough to protect fetuses because abortions are still allowed until the fetal heart tone is detected.

Issue 1 supporters, meanwhile, have focused on the heartbeat law, describing it as an “extreme” ban without rape or incest exceptions.

“These extreme anti-abortion politicians know they are out of step with Ohio voters and can’t win unless they lie, cheat, and rig the rules,” Gabriel Mann, a spokesperson for the pro-Issue 1 campaign, Ohioans United for Reproductive Rights, said in a statement. “First they tried to change the rules with their August special election power grab. Then they forced through misleading ballot language. Now they’re lying

to voters about their dangerous abortion ban that they're still trying to enact - a ban without exceptions for rape or incest that puts women's lives at risk.