

Ohio Supreme Court to weigh abortion amendment's effect on 'heartbeat' case

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COLUMBUS, Ohio — The Ohio Supreme Court is officially re-opening its review of Ohio's six-week "heartbeat" abortion ban in light of last week's passage of state Issue 1, the ballot issue that adds abortion rights to the state constitution.

Chief Justice Sharon Kennedy, a Republican, issued an order Thursday giving state Attorney General Dave Yost and plaintiffs until Dec. 7 to file written arguments stating what effect they think Issue 1 has on the case.

Dec. 7 is the same date that Issue 1 will go into effect after voters approved it in the Nov. 7 election by a 57% to 43% margin.

The development isn't surprising. But it illustrates the piecemeal manner through which the Nov. 7 vote will actually go into effect. Because Issue 1 changes Ohio's main governing document while not repealing any specific law, any individual abortion law on the books would have to be the subject of a specific lawsuit challenging it. It then will be up to courts — with the Ohio Supreme Court potentially having the final say — to decide how Issue 1's passage affects that law.

The U.S. District Court of Southern Ohio, [issued a similar order last week](#) in relation to a challenge to a 2015 state law that involves the written transfer agreements abortion clinics must get from nearby hospitals in case of an emergency.

Abortion-rights activists meanwhile have signaled they will challenge at least some of the three dozen anti-abortion laws the General Assembly has passed in recent years, but have been circumspect about their specific plans.

In the case of the fetal "heartbeat" law, there's already an open lawsuit, filed by abortion providers, challenging it that's before the Ohio Supreme Court. The court, where Republicans hold a 4-3 majority, [heard oral arguments in September](#) from state

officials, who were appealing a lower court's decision that's kept the case on hold indefinitely.

State officials argued that the abortion providers who brought the case didn't have standing, or legal eligibility to sue. If the court were to agree, it could dismiss the case entirely and put the law back into effect.

In addition to the question of whether the clinics and doctor have standing, the state also was pushing the Ohio Supreme Court to force a faster resolution of the state's challenge to a Hamilton County judge's decision to put the law on hold.

Technical, legal questions aside, Yost has said Issue 1 would invalidate the "heartbeat" bill, [per a legal analysis his office prepared for public consumption ahead of last week's vote](#).

Abortion-rights providers, meanwhile, have argued Ohio's constitution barred the "heartbeat" law even before Issue 1 passed, saying existing protections having to do with privacy and other rights in the state constitution extended to protecting the right to have an abortion.