

Ohio qualified immunity amendment: What's next after Supreme Court ruling?

By **Bethany Bruner**
Columbus Dispatch

On April 22, the [U.S. Supreme Court, in a 6-3 decision](#), moved Ohio voters closer to a ballot issue that would eliminate qualified immunity for police across the state.

An effort to have the [proposed state constitutional amendment on the 2024 ballot](#) was rejected several times by Attorney General Dave Yost for language he said was not fair and truthful. A lawsuit filed on behalf of Ohio voters argued Yost's decisions were nit-picking and not based on a reasonable determination of whether the ballot language was fair and truthful.

U.S. District Court Judge James Graham, appointed by President Ronald Reagan, agreed in a decision that sided with voters.

"The Attorney General, one might say, has played the role of an antagonistic copyeditor, striking plaintiffs' work on technical grounds," [Graham wrote in his ruling](#).

The five-member Ohio Ballot Board will now review the proposed constitutional amendment to determine if there should be a single ballot issue or multiple. After that decision, efforts to collect the more than 413,000 valid signatures needed to make the ballot will be cleared to begin.

However, after removing the title and other portions Yost had disapproved, the Ohio Ballot Board [approved a version](#) of the qualified immunity amendment in December. The [Ohio Supreme Court previously had said](#) Yost could not reject a ballot initiative based solely on its title.

Yost has said he will work with Ohio's lawmakers to change the ballot initiative summary process to "protect the integrity of Ohio's elections

and freedom of speech" since Graham's ruling found "Ohio's nearly century-old ballot initiative process was unconstitutional."

What is qualified immunity?

[Qualified immunity](#) is a legal concept that protects government officials, like police officers and legislators, from civil liability for violating a person's rights in most situations when they are acting in their professional capacity.

The concept has garnered [renewed attention and activism efforts](#) following the 2020 killing of George Floyd in Minneapolis and subsequent protests in Ohio and around the country.

For example, in a police shooting, the police department or city may pay a settlement or jury verdict, but the individual officers involved would not be found civilly liable for their conduct.

Qualified immunity relating to police officers is often traced back to the [1967 Supreme Court case Pierson vs. Ray](#), which found that officers who had acted in good faith and with probable cause could not be held financially responsible for their conduct by a court.

Under current law and legal precedent, officers can only be sued if they violate clearly established law.

What group is behind the Ohio qualified immunity ballot initiative?

The ballot initiative is backed by an origination known as as the Ohio Coalition to End Qualified Immunity.

The effort is headed by Cynthia Brown, who has championed the end of qualified immunity since Columbus police shot and killed her nephew, Kareem Ali Nadir Jones, on July 7, 2017. The two officers faced no criminal charges, and [an internal review found they did not violate the department's use-of-force policy](#).

The [OCEQI's website says](#) the group formed in 2020 "in an effort to restore government accountability in Ohio. The organization is made up of volunteers and relies on donations from people who support the cause."

What is the ballot issue?

The [proposed amendment to the Ohio Constitution](#) would eliminate qualified immunity in Ohio. It would allow Ohioans to file lawsuits against police officers, prosecutors, correctional officers or other public employees for violations of constitutional rights. Lawsuits could also be filed against the state, city or other governmental entity they worked for, with the employer being responsible for fines and financial penalties.

If the government employee were found liable, the proposed amendment would require steps to be taken to prevent similar rights violations in the future. An employee who violated someone's rights being fired would not stop a lawsuit.

Why was the Supreme Court involved?

After Graham's ruling, Yost filed a series of appeals that made their way to the U.S. Supreme Court.

The court [ruled 6-3 on April 22](#) to deny Yost's request to block Graham's decision from taking effect. The three justices who dissented, Clarence Thomas, Samuel Alito and Brett Kavanaugh, were all appointed by Republican presidents.