



Fact Sheet Series for the 134th General Assembly

House Bill 121 Eliminate Sex Crime Spousal Exceptions; Permit Spousal Testimony

Sponsors: Representatives Lanese & Boggs
Introduced 2/17/2021

Under Current Law:

- The following sex crimes exempt from culpability perpetrators who are married to their victim (this is commonly referred to as Ohio's **Marital Rape Exemption**): § 2907.02 Rape, § 2907.03 Sexual Battery, § 2907.04 Unlawful Sexual Conduct with a Minor, § 2907.05 Gross Sexual Imposition, § 2907.06 Sexual Imposition, § 2907.07 Importuning.
 - **Note** that though the marital rape exemption to § 2907.02 **does not apply** in cases where the perpetrator used force or threat of force, it **does apply** in cases where the perpetrator uses drugs, intoxicants, or controlled substances to impair the victim, or the victim's ability to resist is otherwise substantially impaired.
- A person is permitted to testify against their spouse in a prosecution of § 2907.02 Rape

This Bill Would:

- **Remove the spousal exemptions** from § 2907.02 Rape, § 2907.03 Sexual Battery, § 2907.04 Unlawful Sexual Conduct with a Minor, § 2907.05 Gross Sexual Imposition, § 2907.06 Sexual Imposition, and § 2907.07 Importuning.
- **Permit spousal testimony** in a prosecution of the following offenses: § 2907.03 Sexual Battery, § 2907.04 Unlawful Sexual Conduct with a Minor, § 2907.05 Gross Sexual Imposition, § 2907.06 Sexual Imposition, § 2907.07 Importuning, and § 2907.09 Public Indecency.

Why This Bill is Important:

- An estimated 33% of rapes are committed by a current or former partner.¹
- A person can be a victim of a sex crime regardless of their relationship to the perpetrator, and sexual violence in a relationship is rarely an isolated incident. This legislation will remove Ohio's codification of outdated and harmful ideas about marital rape.
- Survivors of intimate partner sexual violence are at a higher risk for repeat victimization, higher levels of physical injury, lethality, and longer-lasting trauma.^{2,3}
- Because of the current law's exemptions, §§ 2907.02-2907.07 offenses perpetrated by a spouse do not qualify as sexually oriented offenses. Therefore, married victims are precluded from qualifying for a [Sexually Oriented Offense Protection Order](#).

Written by Emily Gemar, Public Policy Fellow with the Ohio Alliance to End Sexual Violence

¹ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2010-2016 (2017).

² Campbell, J. Assessing Risk Factors for Intimate Partner Homicides, Vol. 250 NIJ JOURNAL 15 (2003).

³ Kelly, T. & Stermac, L. Intimate partner sexual assault against women: Examining the impact and recommendations for clinical practice. Partner Abuse (3)1: 107-122.

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