



Fact Sheet Series for the 135th General Assembly

House Bill 161:

Eliminate spousal exceptions for certain sex offenses
Sponsors: Representative Miranda, Representative Hillyer

Current law:

The following sex crimes exempt from responsibility perpetrators who are married to the victim (this is commonly referred to as Ohio's "Spousal Rape Exemption"): [O.R.C. 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 \(Importuning\)](#).

Although the spousal rape exemption to O.R.C. 2907.02 (Rape) *does not apply* in cases where the perpetrator uses 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. The spousal exemption for rape is also distinct from the other sex offenses because it currently applies only if the spouse lives with the offender.

Existing law permits a person to testify against the person's spouse in a prosecution for personal injury of either by the other or for certain other offenses, including rape. Additionally, a person may testify generally concerning a communication made by one to the other in case of personal injury by either spouse to the other or in certain other cases, including rape.

If passed, this legislation would:

- Remove the spousal exemption from O.R.C. 2907.02 (Rape), 2907.03 Sexual Battery, 2907.04 Unlawful Sexual Conduct with a Minor, 2907.05 Gross Sexual Imposition, 2907.06 Sexual Imposition.
- Remove the spousal exemption from O.R.C. 2907.07 (Importuning) when the offender is 18 or older *and* four or more years older than the victim, the victim is age 16 or 17 and a human trafficking victim, *and* the offender knows or recklessly disregards the age of the other person
- 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.

Why this bill is important:

A person can be a survivor of sexual violence regardless of their relationship to the perpetrator. If passed, this bill will remove Ohio's codification of outdated and harmful ideas about marital rape.

Research demonstrates that most rapes are committed by someone the victim/survivor knows. The 2016/2017 Report from the National Intimate Partner and Sexual Violence Survey (NISVS), which was conducted by the Centers for Disease Control, found that [more than 1 in 3 female survivors \(39.3%\) reported being raped by an intimate partner, while 1 in 8 male survivors were raped by an intimate partner during their lifetimes.](#)

Because of the current law's exemptions, O.R.C. 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.