



HOUSE BILL 161

CALL TO ACTION

Eliminate the Spousal Rape
Loophole in Ohio

OAESV's Public Policy program is funded by a generous grant from the George Gund Foundation, a private Ohio non-profit organization that has donated \$722 million dollars since 1952 to projects that advance human welfare and society.


Background

In most states, spousal and non-spousal sexual violence are treated the same. However, a minority of states have remaining "exceptions", or loopholes, that treat certain forms of spousal sexual violence differently than non-spousal sexual violence. These exceptions exempt an offender from responsibility if they rape or sexually assault their spouse.

Ohio is in the minority of states that still has a loophole in our state code. In recent years, California, Minnesota, Oklahoma, and Idaho have removed spousal exceptions from their state laws.

Sexual violence impacts every community and people from all backgrounds. Anyone can experience or perpetrate sexual violence. **A marriage license does not excuse sexual violence.**

House Bill 161 (HB 161) is a pending bill in the 135th General Assembly in Ohio. It is sponsored by Representative Jessica Miranda and Representative Brett Hillyer. Access our factsheet to learn more!


The Ohio Alliance for Ending Sexual Violence

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), 2907.05 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: § 2907.05 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 (52.5%) 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.

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Implications

Health Impacts

Spousal sexual violence often occurs within the context of an overall pattern of intimate partner violence, stalking, and other forms of abuse. Survivors of spousal rape and other sex crimes report in higher numbers [negative health outcomes](#), [risk factors for homicide and strangulation](#), [repeat victimization](#), and higher levels of PTSD. Due to these poor health outcomes, survivors are also more likely to rely on services like victim advocacy, mental health counseling, and acute and long-term medical care.

Marriage is still a defense to most sex crimes in Ohio.

Reporting & Help-Seeking Impacts

Currently in Ohio, if a survivor of spousal sexual assault goes to law enforcement to report the crime, they may be told that what happened to them is not a crime. This can be demoralizing to survivors and deter further help-seeking. Such an experience can also interfere with a survivor's plans to leave an abusive relationship.

Perpetrators of spousal rape exert power over their spouses by knowing and exploiting vulnerabilities, like loopholes, to commit sexual assault and prevent disclosures. Perpetrators may also rely on and reinforce the legal system's belief in common domestic and sexual violence myths to escape accountability.

Deterrents to reporting are serious threats to public safety, particularly when we consider that when [survivors can engage with justice contact, either through police or protection orders, there is a 70% reduction in the risk of re-assault.](#)

Messaging

Group	Focus Area	Sample Messaging
Advocates	Impact on Survivor Safety & Services	"As an advocate, my job is to provide survivors with options: options to report, options to seek safety, and options for healing. Due to this loophole, I can't provide adequate options to married survivors."
Law Enforcement	Impact on Community Safety	"Reporting rates for these types of crimes are low because people know they won't receive help in making a report – which endangers the safety of the communities I serve. This loophole is a strong deterrent to reporting serious crimes that deserve the same investigation and prosecution of non-spousal sex crimes."
Prosecutors	Impact on Investigations & Prosecutions	"This loophole increases difficulty for investigations and prosecutions -delayed reports and/or working with a survivor who is not yet ready to participate in the prosecution or does not feel safe doing so complicates our ability to prosecute crimes."
Healthcare Providers	Impact on Patient Health & Wellbeing	"Forensic nurses are experts on the negative acute and chronic health consequences of sexual violence. Patients experience adverse health outcomes regardless of their legal relationship with an offender. Access to medical, legal, and other support options must be equally available to all victim-survivors."
Human Trafficking	Relationship between human trafficking & spousal rape	"Perpetrators can force their spouses to engage in forced, coerced, or nonconsensual sexual activity with others. Spousal rape can co-occur with human trafficking and commercial sexual exploitation."

Talking Points

Survivors deserve access to the full range of options in the aftermath of sexual violence, regardless of their legal relationship to the offender. Singling out sexual violence as a type of crime that married people should have less protection from is appalling - and deters survivors from reporting and seeking help.

Supporters of the spousal rape loophole reinforce myths about sexual violence to detract from efforts to eliminate the loophole. These falsehoods perpetuate assumptions about what counts as sexual assault and who can be considered a victim. A common myth is that survivors often lie about being raped or make false reports as retaliation even when [available statistics do not reflect that](#).

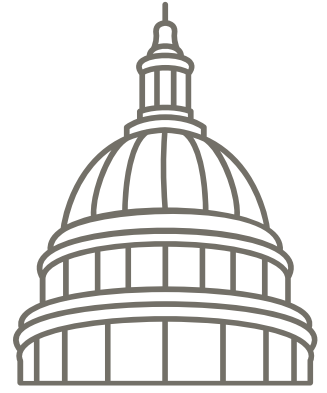
Protection orders are a critical safety planning tool for many survivors of intimate partner violence and sexual violence. The current loophole in the law prevents certain sex crimes from qualifying as sexually oriented offenses, thereby removing a key safety mechanism for married survivors pursuing protection after drug-induced rape, sexual battery, or gross sexual imposition.

Removing the spousal exception does not remove all of the checks our systems have in place to evaluate and investigate reports of sexual violence. The survivor who reports will still have to demonstrate to the court or jury's satisfaction that they have met the applicable standard of proof. Instead, this bill creates full and equal legal protection regardless of marital status.



Action Items

Action items are in order of urgency.
Resources are accessible by the highlighted links below.



01. Contact your State Senator

[Find your Senator here.](#)

Encourage your state Senator to schedule hearings for HB 161 in 2024.

Across all hearings in the Ohio House, only proponents (supporters) testified. The bill was voted out of the House in November 2023 and it's next step is committee testimony in the Senate Judiciary Committee.

02. Contact your local partners

Contact SART/CCRT members, law enforcement, forensic nurses, prosecutors, social workers, family & child service partners, and more in your network!

The more diverse group our supporter base is, the more likely it is that the bill will move forward.