



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 266
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Galonski and Miranda

Aida S. Montano, Research Analyst

SUMMARY

Statute of limitations for childhood sexual abuse

- Modifies the statute of limitations for a childhood sexual abuse action by providing that the action must be brought at any time until the victim reaches age 55 and allows an action against a perpetrator of the childhood sexual abuse or an entity that negligently facilitated that sexual abuse.
- Removes a provision that states that a childhood sexual abuse action accrues on the date on which the victim reaches the age of majority.
- Modifies when a childhood sexual abuse victim may bring an action if the defendant in a childhood sexual abuse action brought by a childhood sexual abuse victim asserting a claim resulting from childhood sexual abuse that occurs after August 3, 2006, has fraudulently concealed from the plaintiff facts that form the basis of the claim.
- Allows for the revival of a childhood sexual abuse action if the action is otherwise barred on the effective date of the bill and allows a childhood sexual abuse action to be commenced within three years after the effective date of the bill.

Statute of limitations for rape

- Eliminates the period of limitation for prosecuting rape or a conspiracy or attempt to commit, or complicity in committing, rape.
- Requires biological evidence related to the investigation or prosecution of a rape or attempted rape to be preserved for as long as the offense remains unsolved.
- States that there is no period of limitations for a civil action brought by a victim of conduct that would constitute rape, or conspiracy to commit, complicity in committing, or attempting to commit rape, against the person who committed that conduct.

Elimination of spousal exemption from rape

- Eliminates the exception to rape if the sexual conduct is with the spouse of the offender or the spouse of the offender who is living separate and apart from the offender.

DETAILED ANALYSIS

Statute of limitations for childhood sexual abuse

The bill modifies the existing statute of limitations for an action for assault and battery brought by a childhood sexual abuse victim based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse. Under existing law, the action must be brought within 12 years after the cause of action accrues.

Under the bill, generally, an action must be brought at any time until the victim reaches age 55 if both of the following apply:¹

- The action is either of the following:
 - For assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse; or
 - Brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse.
- The action is against a perpetrator of the childhood sexual abuse or an entity that negligently facilitated that sexual abuse.

The bill removes the existing law provision that states that a cause of action for assault or battery based on childhood sexual abuse, or a cause of action for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority.²

Under existing law, if the defendant in an action brought by a childhood sexual abuse victim asserting a claim resulting from childhood sexual abuse that occurs after August 3, 2006, has fraudulently concealed from the plaintiff facts that form the basis of the claim, the running of the limitations period with regard to that claim is tolled until the time when the plaintiff discovers or in the exercise of due diligence should have discovered those facts. The bill modifies this provision by instead providing that if the plaintiff discovers those facts after reaching age 55, the plaintiff may bring an action asserting a claim resulting from the childhood

¹ R.C. 2305.111(C)(1).

² R.C. 2305.111(C).

sexual abuse not later than three years after the date of the discovery of those facts that form the basis of the claim.³

Revival of childhood sexual abuse action

Under the bill, if, on the effective date of this amendment, a cause of action for assault or battery based on childhood sexual abuse or a claim resulting from childhood sexual abuse is barred due to the expiration of the applicable period of limitation of that action or claim that was in effect prior to the effective date of the bill, that cause of action or claim must be revived and an action for assault or battery by the victim of the childhood sexual abuse based on childhood sexual abuse or a claim resulting from childhood sexual abuse asserted by the victim of that childhood sexual abuse may be commenced within three years after the effective date of the bill.⁴

Statute of limitations for rape

The bill eliminates the period of limitation for prosecuting rape or a conspiracy or attempt to commit, or complicity in committing, rape.⁵ Currently, subject to certain exceptions, a prosecution for rape or a conspiracy or attempt to commit, or complicity in committing, rape is barred unless it is commenced within 25 years after the offense was committed.⁶

The bill removes the following provisions in current law:⁷

- If a DNA record made in connection with the criminal investigation of the commission of rape is determined to match another DNA record that is of an identifiable person and if the time of the determination is later than 25 years after the offense is committed, prosecution of that person for rape may be commenced within five years after the determination is complete.
- If a DNA record made in connection with the criminal investigation of the commission of rape is determined to match another DNA record that is of an identifiable person and if the time of the determination is within 25 years after the offense is committed, prosecution of that person for rape may be commenced within the longer of 25 years after the offense is committed or five years after the determination is complete.

Preservation of biological evidence

The bill requires any “government evidence-retention entity” that secures any “biological evidence” in relation to an investigation or prosecution of rape or a delinquent act that would constitute rape if committed by an adult, to secure biological evidence in relation to

³ R.C. 2305.111(C)(2).

⁴ R.C. 2305.111(D).

⁵ R.C. 2901.13(A)(2).

⁶ R.C. 2901.13(A)(4).

⁷ R.C. 2901.13(D).

a rape or attempted rape for the period of time that offense or delinquent act remains unsolved.⁸ Currently, a government evidence-retention entity must secure biological evidence of rape or attempted rape for 30 years if the offense or act remains unsolved.⁹

Continuing law defines the following:¹⁰

- “Government evidence retention entity” means any law enforcement agency, prosecutor’s office, court, public hospital, crime laboratory, or other governmental or public entity or individual within Ohio that is charged with the collection, storage, or retrieval of biological evidence, or any official or employee of any such entity or individual.
- “Biological evidence” means the contents of a sexual assault examination kit, or any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of a criminal investigation or delinquent child investigation and that reasonably may be used to incriminate or exculpate any person for an offense or delinquent act.¹¹

Under existing law not changed by the bill, if any person is convicted of or pleads guilty to an offense, including rape, or is adjudicated a delinquent child for committing the delinquent act, the biological evidence must be secured for the earlier of the following:

1. The expiration of the latest of the following periods of time that apply to the person: the period of time that the person is incarcerated, is in a Department of Youth Services institution or other juvenile facility, is under a community control sanction for that offense, is under any order of disposition for that act, is on probation or parole for that offense, is under judicial release or supervised release for that act, is under post-release control for that offense, is involved in civil litigation in connection with that offense or act, or is subject to registration and other duties imposed for that offense or act under the Sexual Offense Registration and Notification Law; or
2. 30 years.

If after the period of 30 years the person remains incarcerated, the governmental evidence-retention entity must secure the biological evidence until the person is released from incarceration or dies.¹²

⁸ R.C. 2933.82(B)(1)(a).

⁹ R.C. 2933.82(B)(1)(b).

¹⁰ R.C. 2933.82(A)(1) and (5).

¹¹ R.C. 2933.82(A)(1)

¹² R.C. 2933.82(B)(1)(c).

Period of limitations for civil action for conduct constituting rape

The bill provides that notwithstanding any other section of the Revised Code to the contrary, there is no period of limitations for a civil action brought by a victim of conduct that would constitute rape or conspiracy to commit, complicity in committing, or attempting to commit rape.¹³

Elimination of spousal exemption from rape

Existing law prohibits any person from engaging in sexual conduct that constitutes rape with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender. The bill eliminates the exception to rape if the sexual conduct is with the spouse of the offender or the spouse of the offender who is living separate and apart from the offender.¹⁴

HISTORY

Action	Date
Introduced	04-21-21

H0266-I-134/ar

¹³ R.C. 2305.118.

¹⁴ R.C. 2907.02(A)(1).