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H.B. 161
135th General Assembly

Bill Analysis

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Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Miranda and Hillyer

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SUMMARY

- Eliminates exceptions to certain sex offenses that currently apply if the victim is the spouse of the offender.
- Expands the proceedings in which a person may testify against the person's spouse to include prosecutions for any of the sex offenses modified by the bill.

DETAILED ANALYSIS

Elimination of spousal exception for certain sex offenses

The bill eliminates all exceptions to the following sex offenses that currently apply if the person subjected to the prohibited conduct is the offender's spouse:¹

- Rape;
- Sexual battery;
- Unlawful sexual conduct with a minor;
- Gross sexual imposition;
- Sexual imposition.

The spousal exception for rape is distinct from the others because it currently applies only if the spouse lives with the offender. Under the bill, a person could be convicted of rape involving the spouse, regardless of whether the spouse lives with or apart from the offender.²

¹ R.C. 2907.02(A), 2907.03(A), 2907.04(A), 2907.05(A), and 2907.06(A).

² R.C. 2907.02(A)(1).

The bill removes the spousal exception from the prohibition against importuning when the offender is age 18 or older and four or more years older than the other person, the other person is age 16 or 17 and a victim of trafficking in persons, and the offender knows or recklessly disregards the age of the other person.³

Spousal testimony in sex offense prosecutions

The bill permits a person to testify against the person's spouse in a prosecution for any of the sex offenses listed in the section above. It also permits a spouse to testify concerning a communication made by one to the other in a case involving any of those offenses, as well as public indecency. 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.⁴

HISTORY

Action	Date
Introduced	04-26-23
Reported, H. Criminal Justice	10-18-23

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³ R.C. 2907.07(B)(2).

⁴ R.C. 2945.42.