



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 161  
135<sup>th</sup> General Assembly

## Final Analysis

[Click here for H.B. 161's Fiscal Note](#)

**Primary Sponsors:** Reps. Miranda and Hillyer

**Effective Date:** August 9, 2024

Shalanda R. Plowden, Research Analyst

### SUMMARY

- Eliminates exceptions to certain sex offenses that formerly applied if the victim was 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 act.

### DETAILED ANALYSIS

#### Elimination of spousal exception for certain sex offenses

The act eliminates all exceptions to the following sex offenses that formerly applied if the person subjected to the prohibited conduct was the offender's spouse:<sup>1</sup>

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

The spousal exception for rape was distinct from the others because it applied only if the spouse lived with the offender. Under the act, a person could be convicted of rape involving the spouse, regardless of whether the spouse lives with or apart from the offender.<sup>2</sup>

<sup>1</sup> R.C. 2907.02(A), 2907.03(A), 2907.04(A), 2907.05(A), and 2907.06(A).

<sup>2</sup> R.C. 2907.02(A)(1).

The act 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.<sup>3</sup>

## Spousal testimony in sex offense prosecutions

The act 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. Continuing 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.<sup>4</sup>

---

## HISTORY

Action	Date
Introduced	04-26-23
Reported, H. Criminal Justice	10-18-23
Passed House (75-1)	11-29-23
Reported, S. Judiciary	04-24-24
Passed Senate (32-0)	04-24-24

24-ANHB0161EN-135/ts

---

<sup>3</sup> R.C. 2907.07(B)(2).

<sup>4</sup> R.C. 2945.42.