

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 162**

**Senators Antonio, O'Brien**

**Cosponsors: Senators Craig, Fedor, Kunze, Lehner, Maharath, Sykes, Thomas,  
Williams, Yuko**

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**A BILL**

To amend sections 2901.13, 2907.02, 2907.03, 1  
2907.04, 2907.05, 2907.06, 2907.07, 2933.82, and 2  
2945.42 and to enact section 2305.117 of the 3  
Revised Code to eliminate the spousal exceptions 4  
for certain sex offenses, to permit a person to 5  
testify against the person's spouse in a 6  
prosecution for any of those offenses, to 7  
eliminate the period of limitation for the 8  
criminal prosecution of a person for rape and 9  
for a civil action brought by a victim of 10  
conduct that would constitute rape, and to amend 11  
the versions of sections 2907.02 and 2907.05 of 12  
the Revised Code that are scheduled to take 13  
effect March 22, 2020, to continue the 14  
provisions of this act on and after that 15  
effective date. 16

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2901.13, 2907.02, 2907.03, 17  
2907.04, 2907.05, 2907.06, 2907.07, 2933.82, and 2945.42 be 18

amended and section 2305.117 of the Revised Code be enacted to 19  
read as follows: 20

Sec. 2305.117. Notwithstanding any other section of the 21  
Revised Code to the contrary, there is no period of limitations 22  
for a civil action brought by a victim of conduct that would 23  
constitute a violation of section 2907.02 of the Revised Code or 24  
conduct that would constitute conspiracy to commit, complicity 25  
in committing, or attempting to commit a violation of section 26  
2907.02 of the Revised Code against the person who committed 27  
that conduct. 28

**Sec. 2901.13.** (A) (1) Except as provided in division (A) 29  
(2), (3), or (4) of this section or as otherwise provided in 30  
this section, a prosecution shall be barred unless it is 31  
commenced within the following periods after an offense is 32  
committed: 33

(a) For a felony, six years; 34

(b) For a misdemeanor other than a minor misdemeanor, two 35  
years; 36

(c) For a minor misdemeanor, six months. 37

(2) There is no period of limitation for the prosecution 38  
of ~~a~~ any of the following offenses: 39

(a) A violation of section 2903.01 ~~or,~~ 2903.02, or 40  
2907.02 of the Revised Code; 41

(b) A conspiracy to commit, attempt to commit, or 42  
complicity in committing a violation of section 2907.02 of the 43  
Revised Code. 44

(3) Except as otherwise provided in divisions (B) to (J) 45  
of this section, a prosecution of any of the following offenses 46

shall be barred unless it is commenced within twenty years after 47  
the offense is committed: 48

(a) A violation of section 2903.03, 2903.04, 2905.01, 49  
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 50  
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 51  
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 52  
section 2903.11 or 2903.12 of the Revised Code if the victim is 53  
a peace officer, a violation of section 2903.13 of the Revised 54  
Code that is a felony, or a violation of former section 2907.12 55  
of the Revised Code; 56

(b) A conspiracy to commit, attempt to commit, or 57  
complicity in committing a violation set forth in division (A) 58  
(3) (a) of this section. 59

(4) Except as otherwise provided in divisions (D) to (L) 60  
of this section, a prosecution of a violation of section ~~2907.02~~ 61  
~~or~~ 2907.03 of the Revised Code or a conspiracy to commit, 62  
attempt to commit, or complicity in committing a violation of 63  
~~either that~~ section shall be barred unless it is commenced 64  
within twenty-five years after the offense is committed. 65

(B) (1) Except as otherwise provided in division (B) (2) of 66  
this section, if the period of limitation provided in division 67  
(A) (1) or (3) of this section has expired, prosecution shall be 68  
commenced for an offense of which an element is fraud or breach 69  
of a fiduciary duty, within one year after discovery of the 70  
offense either by an aggrieved person, or by the aggrieved 71  
person's legal representative who is not a party to the offense. 72

(2) If the period of limitation provided in division (A) 73  
(1) or (3) of this section has expired, prosecution for a 74  
violation of section 2913.49 of the Revised Code shall be 75

commenced within five years after discovery of the offense 76  
either by an aggrieved person or the aggrieved person's legal 77  
representative who is not a party to the offense. 78

(C) (1) If the period of limitation provided in division 79  
(A) (1) or (3) of this section has expired, prosecution shall be 80  
commenced for the following offenses during the following 81  
specified periods of time: 82

(a) For an offense involving misconduct in office by a 83  
public servant, at any time while the accused remains a public 84  
servant, or within two years thereafter; 85

(b) For an offense by a person who is not a public servant 86  
but whose offense is directly related to the misconduct in 87  
office of a public servant, at any time while that public 88  
servant remains a public servant, or within two years 89  
thereafter. 90

(2) As used in this division: 91

(a) An "offense is directly related to the misconduct in 92  
office of a public servant" includes, but is not limited to, a 93  
violation of section 101.71, 101.91, 121.61 or 2921.13, division 94  
(F) or (H) of section 102.03, division (A) of section 2921.02, 95  
division (A) or (B) of section 2921.43, or division (F) or (G) 96  
of section 3517.13 of the Revised Code, that is directly related 97  
to an offense involving misconduct in office of a public 98  
servant. 99

(b) "Public servant" has the same meaning as in section 100  
2921.01 of the Revised Code. 101

(D) (1) If a DNA record made in connection with the 102  
criminal investigation of the commission of a violation of 103  
section ~~2907.02~~ or 2907.03 of the Revised Code is determined to 104

match another DNA record that is of an identifiable person and 105  
if the time of the determination is later than twenty-five years 106  
after the offense is committed, prosecution of that person for a 107  
violation of ~~the~~that section may be commenced within five years 108  
after the determination is complete. 109

(2) If a DNA record made in connection with the criminal 110  
investigation of the commission of a violation of section 111  
~~2907.02 or~~ 2907.03 of the Revised Code is determined to match 112  
another DNA record that is of an identifiable person and if the 113  
time of the determination is within twenty-five years after the 114  
offense is committed, prosecution of that person for a violation 115  
of ~~the~~that section may be commenced within the longer of 116  
twenty-five years after the offense is committed or five years 117  
after the determination is complete. 118

(3) As used in this division, "DNA record" has the same 119  
meaning as in section 109.573 of the Revised Code. 120

(E) An offense is committed when every element of the 121  
offense occurs. In the case of an offense of which an element is 122  
a continuing course of conduct, the period of limitation does 123  
not begin to run until such course of conduct or the accused's 124  
accountability for it terminates, whichever occurs first. 125

(F) A prosecution is commenced on the date an indictment 126  
is returned or an information filed, or on the date a lawful 127  
arrest without a warrant is made, or on the date a warrant, 128  
summons, citation, or other process is issued, whichever occurs 129  
first. A prosecution is not commenced by the return of an 130  
indictment or the filing of an information unless reasonable 131  
diligence is exercised to issue and execute process on the same. 132  
A prosecution is not commenced upon issuance of a warrant, 133  
summons, citation, or other process, unless reasonable diligence 134

is exercised to execute the same. 135

(G) The period of limitation shall not run during any time 136  
when the corpus delicti remains undiscovered. 137

(H) The period of limitation shall not run during any time 138  
when the accused purposely avoids prosecution. Proof that the 139  
accused departed this state or concealed the accused's identity 140  
or whereabouts is prima-facie evidence of the accused's purpose 141  
to avoid prosecution. 142

(I) The period of limitation shall not run during any time 143  
a prosecution against the accused based on the same conduct is 144  
pending in this state, even though the indictment, information, 145  
or process that commenced the prosecution is quashed or the 146  
proceedings on the indictment, information, or process are set 147  
aside or reversed on appeal. 148

(J) The period of limitation for a violation of any 149  
provision of Title XXIX of the Revised Code that involves a 150  
physical or mental wound, injury, disability, or condition of a 151  
nature that reasonably indicates abuse or neglect of a child 152  
under eighteen years of age or of a child with a developmental 153  
disability or physical impairment under twenty-one years of age 154  
shall not begin to run until either of the following occurs: 155

(1) The victim of the offense reaches the age of majority. 156

(2) A public children services agency, or a municipal or 157  
county peace officer that is not the parent or guardian of the 158  
child, in the county in which the child resides or in which the 159  
abuse or neglect is occurring or has occurred has been notified 160  
that abuse or neglect is known, suspected, or believed to have 161  
occurred. 162

(K) As used in this section, "peace officer" has the same 163

meaning as in section 2935.01 of the Revised Code. 164

(L) The amendments to divisions (A) and (D) of this 165  
section apply to a violation of section ~~2907.02~~ or 2907.03 of 166  
the Revised Code committed on and after July 16, 2015, and apply 167  
to a violation of either of those sections committed prior to 168  
July 16, 2015, if prosecution for that violation was not barred 169  
under this section as it existed on the day prior to July 16, 170  
2015. 171

**Sec. 2907.02.** (A) (1) No person shall engage in sexual 172  
conduct with another ~~who is not the spouse of the offender or~~ 173  
~~who is the spouse of the offender but is living separate and~~ 174  
~~apart from the offender,~~ when any of the following applies: 175

(a) For the purpose of preventing resistance, the offender 176  
substantially impairs the other person's judgment or control by 177  
administering any drug, intoxicant, or controlled substance to 178  
the other person surreptitiously or by force, threat of force, 179  
or deception. 180

(b) The other person is less than thirteen years of age, 181  
whether or not the offender knows the age of the other person. 182

(c) The other person's ability to resist or consent is 183  
substantially impaired because of a mental or physical condition 184  
or because of advanced age, and the offender knows or has 185  
reasonable cause to believe that the other person's ability to 186  
resist or consent is substantially impaired because of a mental 187  
or physical condition or because of advanced age. 188

(2) No person shall engage in sexual conduct with another 189  
when the offender purposely compels the other person to submit 190  
by force or threat of force. 191

(B) Whoever violates this section is guilty of rape, a 192

felony of the first degree. If the offender under division (A) 193  
(1) (a) of this section substantially impairs the other person's 194  
judgment or control by administering any controlled substance 195  
described in section 3719.41 of the Revised Code to the other 196  
person surreptitiously or by force, threat of force, or 197  
deception, the prison term imposed upon the offender shall be 198  
one of the definite prison terms prescribed for a felony of the 199  
first degree in division (A) (1) (b) of section 2929.14 of the 200  
Revised Code that is not less than five years, except that if 201  
the violation is committed on or after ~~the effective date of~~ 202  
~~this amendment~~ March 22, 2019, the court shall impose as the 203  
minimum prison term for the offense a mandatory prison term that 204  
is one of the minimum terms prescribed for a felony of the first 205  
degree in division (A) (1) (a) of section 2929.14 of the Revised 206  
Code that is not less than five years. Except as otherwise 207  
provided in this division, notwithstanding sections 2929.11 to 208  
2929.14 of the Revised Code, an offender under division (A) (1) 209  
(b) of this section shall be sentenced to a prison term or term 210  
of life imprisonment pursuant to section 2971.03 of the Revised 211  
Code. If an offender is convicted of or pleads guilty to a 212  
violation of division (A) (1) (b) of this section, if the offender 213  
was less than sixteen years of age at the time the offender 214  
committed the violation of that division, and if the offender 215  
during or immediately after the commission of the offense did 216  
not cause serious physical harm to the victim, the victim was 217  
ten years of age or older at the time of the commission of the 218  
violation, and the offender has not previously been convicted of 219  
or pleaded guilty to a violation of this section or a 220  
substantially similar existing or former law of this state, 221  
another state, or the United States, the court shall not 222  
sentence the offender to a prison term or term of life 223  
imprisonment pursuant to section 2971.03 of the Revised Code, 224

and instead the court shall sentence the offender as otherwise 225  
provided in this division. If an offender under division (A) (1) 226  
(b) of this section previously has been convicted of or pleaded 227  
guilty to violating division (A) (1) (b) of this section or to 228  
violating an existing or former law of this state, another 229  
state, or the United States that is substantially similar to 230  
division (A) (1) (b) of this section, if the offender during or 231  
immediately after the commission of the offense caused serious 232  
physical harm to the victim, or if the victim under division (A) 233  
(1) (b) of this section is less than ten years of age, in lieu of 234  
sentencing the offender to a prison term or term of life 235  
imprisonment pursuant to section 2971.03 of the Revised Code, 236  
the court may impose upon the offender a term of life without 237  
parole. If the court imposes a term of life without parole 238  
pursuant to this division, division (F) of section 2971.03 of 239  
the Revised Code applies, and the offender automatically is 240  
classified a tier III sex offender/child-victim offender, as 241  
described in that division. 242

(C) A victim need not prove physical resistance to the 243  
offender in prosecutions under this section. 244

(D) Evidence of specific instances of the victim's sexual 245  
activity, opinion evidence of the victim's sexual activity, and 246  
reputation evidence of the victim's sexual activity shall not be 247  
admitted under this section unless it involves evidence of the 248  
origin of semen, pregnancy, or disease, or the victim's past 249  
sexual activity with the offender, and only to the extent that 250  
the court finds that the evidence is material to a fact at issue 251  
in the case and that its inflammatory or prejudicial nature does 252  
not outweigh its probative value. 253

Evidence of specific instances of the defendant's sexual 254

activity, opinion evidence of the defendant's sexual activity, 255  
and reputation evidence of the defendant's sexual activity shall 256  
not be admitted under this section unless it involves evidence 257  
of the origin of semen, pregnancy, or disease, the defendant's 258  
past sexual activity with the victim, or is admissible against 259  
the defendant under section 2945.59 of the Revised Code, and 260  
only to the extent that the court finds that the evidence is 261  
material to a fact at issue in the case and that its 262  
inflammatory or prejudicial nature does not outweigh its 263  
probative value. 264

(E) Prior to taking testimony or receiving evidence of any 265  
sexual activity of the victim or the defendant in a proceeding 266  
under this section, the court shall resolve the admissibility of 267  
the proposed evidence in a hearing in chambers, which shall be 268  
held at or before preliminary hearing and not less than three 269  
days before trial, or for good cause shown during the trial. 270

(F) Upon approval by the court, the victim may be 271  
represented by counsel in any hearing in chambers or other 272  
proceeding to resolve the admissibility of evidence. If the 273  
victim is indigent or otherwise is unable to obtain the services 274  
of counsel, the court, upon request, may appoint counsel to 275  
represent the victim without cost to the victim. 276

(G) It is not a defense to a charge under division (A) (2) 277  
of this section that the offender and the victim were married or 278  
were cohabiting at the time of the commission of the offense. 279

**Sec. 2907.03.** (A) No person shall engage in sexual conduct 280  
with another, ~~not the spouse of the offender,~~ when any of the 281  
following apply: 282

(1) The offender knowingly coerces the other person to 283

submit by any means that would prevent resistance by a person of ordinary resolution.	284 285
(2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.	286 287 288
(3) The offender knows that the other person submits because the other person is unaware that the act is being committed.	289 290 291
(4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.	292 293 294
(5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.	295 296 297
(6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.	298 299 300
(7) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.	301 302 303 304 305 306
(8) The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.	307 308 309 310
(9) The other person is a minor, and the offender is the	311

other person's athletic or other type of coach, is the other 312  
person's instructor, is the leader of a scouting troop of which 313  
the other person is a member, or is a person with temporary or 314  
occasional disciplinary control over the other person. 315

(10) The offender is a mental health professional, the 316  
other person is a mental health client or patient of the 317  
offender, and the offender induces the other person to submit by 318  
falsely representing to the other person that the sexual conduct 319  
is necessary for mental health treatment purposes. 320

(11) The other person is confined in a detention facility, 321  
and the offender is an employee of that detention facility. 322

(12) The other person is a minor, the offender is a 323  
cleric, and the other person is a member of, or attends, the 324  
church or congregation served by the cleric. 325

(13) The other person is a minor, the offender is a peace 326  
officer, and the offender is more than two years older than the 327  
other person. 328

(B) Whoever violates this section is guilty of sexual 329  
battery. Except as otherwise provided in this division, sexual 330  
battery is a felony of the third degree. If the other person is 331  
less than thirteen years of age, sexual battery is a felony of 332  
the second degree, and the court shall impose upon the offender 333  
a mandatory prison term equal to one of the definite prison 334  
terms prescribed in division (A) (2) (b) of section 2929.14 of the 335  
Revised Code for a felony of the second degree, except that if 336  
the violation is committed on or after ~~the effective date of~~ 337  
~~this amendment~~ March 22, 2019, the court shall impose as the 338  
minimum prison term for the offense a mandatory prison term that 339  
is one of the minimum terms prescribed in division (A) (2) (a) of 340

that section for a felony of the second degree. 341

(C) As used in this section: 342

(1) "Cleric" has the same meaning as in section 2317.02 of 343  
the Revised Code. 344

(2) "Detention facility" has the same meaning as in 345  
section 2921.01 of the Revised Code. 346

(3) "Institution of higher education" means a state 347  
institution of higher education defined in section 3345.011 of 348  
the Revised Code, a private nonprofit college or university 349  
located in this state that possesses a certificate of 350  
authorization issued by the Ohio board of regents pursuant to 351  
Chapter 1713. of the Revised Code, or a school certified under 352  
Chapter 3332. of the Revised Code. 353

(4) "Peace officer" has the same meaning as in section 354  
2935.01 of the Revised Code. 355

**Sec. 2907.04.** (A) No person who is eighteen years of age 356  
or older shall engage in sexual conduct with another, ~~who is not~~ 357  
~~the spouse of the offender,~~ when the offender knows the other 358  
person is thirteen years of age or older but less than sixteen 359  
years of age, or the offender is reckless in that regard. 360

(B) Whoever violates this section is guilty of unlawful 361  
sexual conduct with a minor. 362

(1) Except as otherwise provided in divisions (B) (2), (3), 363  
and (4) of this section, unlawful sexual conduct with a minor is 364  
a felony of the fourth degree. 365

(2) Except as otherwise provided in division (B) (4) of 366  
this section, if the offender is less than four years older than 367  
the other person, unlawful sexual conduct with a minor is a 368

misdemeanor of the first degree. 369

(3) Except as otherwise provided in division (B) (4) of 370  
this section, if the offender is ten or more years older than 371  
the other person, unlawful sexual conduct with a minor is a 372  
felony of the third degree. 373

(4) If the offender previously has been convicted of or 374  
pleaded guilty to a violation of section 2907.02, 2907.03, or 375  
2907.04 of the Revised Code or a violation of former section 376  
2907.12 of the Revised Code, unlawful sexual conduct with a 377  
minor is a felony of the second degree. 378

**Sec. 2907.05.** (A) No person shall have sexual contact with 379  
another, ~~not the spouse of the offender;~~ cause another, ~~not the~~ 380  
~~spouse of the offender,~~ to have sexual contact with the 381  
offender; or cause two or more other persons to have sexual 382  
contact when any of the following applies: 383

(1) The offender purposely compels the other person, or 384  
one of the other persons, to submit by force or threat of force. 385

(2) For the purpose of preventing resistance, the offender 386  
substantially impairs the judgment or control of the other 387  
person or of one of the other persons by administering any drug, 388  
intoxicant, or controlled substance to the other person 389  
surreptitiously or by force, threat of force, or deception. 390

(3) The offender knows that the judgment or control of the 391  
other person or of one of the other persons is substantially 392  
impaired as a result of the influence of any drug or intoxicant 393  
administered to the other person with the other person's consent 394  
for the purpose of any kind of medical or dental examination, 395  
treatment, or surgery. 396

(4) The other person, or one of the other persons, is less 397

than thirteen years of age, whether or not the offender knows 398  
the age of that person. 399

(5) The ability of the other person to resist or consent 400  
or the ability of one of the other persons to resist or consent 401  
is substantially impaired because of a mental or physical 402  
condition or because of advanced age, and the offender knows or 403  
has reasonable cause to believe that the ability to resist or 404  
consent of the other person or of one of the other persons is 405  
substantially impaired because of a mental or physical condition 406  
or because of advanced age. 407

(B) No person shall knowingly touch the genitalia of 408  
another, when the touching is not through clothing, the other 409  
person is less than twelve years of age, whether or not the 410  
offender knows the age of that person, and the touching is done 411  
with an intent to abuse, humiliate, harass, degrade, or arouse 412  
or gratify the sexual desire of any person. 413

(C) Whoever violates this section is guilty of gross 414  
sexual imposition. 415

(1) Except as otherwise provided in this section, gross 416  
sexual imposition committed in violation of division (A) (1), 417  
(2), (3), or (5) of this section is a felony of the fourth 418  
degree. If the offender under division (A) (2) of this section 419  
substantially impairs the judgment or control of the other 420  
person or one of the other persons by administering any 421  
controlled substance described in section 3719.41 of the Revised 422  
Code to the person surreptitiously or by force, threat of force, 423  
or deception, gross sexual imposition committed in violation of 424  
division (A) (2) of this section is a felony of the third degree. 425

(2) Gross sexual imposition committed in violation of 426

division (A) (4) or (B) of this section is a felony of the third 427  
degree. Except as otherwise provided in this division, for gross 428  
sexual imposition committed in violation of division (A) (4) or 429  
(B) of this section there is a presumption that a prison term 430  
shall be imposed for the offense. The court shall impose on an 431  
offender convicted of gross sexual imposition in violation of 432  
division (A) (4) or (B) of this section a mandatory prison term, 433  
as described in division (C) (3) of this section, for a felony of 434  
the third degree if either of the following applies: 435

(a) Evidence other than the testimony of the victim was 436  
admitted in the case corroborating the violation; 437

(b) The offender previously was convicted of or pleaded 438  
guilty to a violation of this section, rape, the former offense 439  
of felonious sexual penetration, or sexual battery, and the 440  
victim of the previous offense was less than thirteen years of 441  
age. 442

(3) A mandatory prison term required under division (C) (2) 443  
of this section shall be a definite term from the range of 444  
prison terms provided in division (A) (3) (a) of section 2929.14 445  
of the Revised Code for a felony of the third degree. 446

(D) A victim need not prove physical resistance to the 447  
offender in prosecutions under this section. 448

(E) Evidence of specific instances of the victim's sexual 449  
activity, opinion evidence of the victim's sexual activity, and 450  
reputation evidence of the victim's sexual activity shall not be 451  
admitted under this section unless it involves evidence of the 452  
origin of semen, pregnancy, or disease, or the victim's past 453  
sexual activity with the offender, and only to the extent that 454  
the court finds that the evidence is material to a fact at issue 455

in the case and that its inflammatory or prejudicial nature does 456  
not outweigh its probative value. 457

Evidence of specific instances of the defendant's sexual 458  
activity, opinion evidence of the defendant's sexual activity, 459  
and reputation evidence of the defendant's sexual activity shall 460  
not be admitted under this section unless it involves evidence 461  
of the origin of semen, pregnancy, or disease, the defendant's 462  
past sexual activity with the victim, or is admissible against 463  
the defendant under section 2945.59 of the Revised Code, and 464  
only to the extent that the court finds that the evidence is 465  
material to a fact at issue in the case and that its 466  
inflammatory or prejudicial nature does not outweigh its 467  
probative value. 468

(F) Prior to taking testimony or receiving evidence of any 469  
sexual activity of the victim or the defendant in a proceeding 470  
under this section, the court shall resolve the admissibility of 471  
the proposed evidence in a hearing in chambers, which shall be 472  
held at or before preliminary hearing and not less than three 473  
days before trial, or for good cause shown during the trial. 474

(G) Upon approval by the court, the victim may be 475  
represented by counsel in any hearing in chambers or other 476  
proceeding to resolve the admissibility of evidence. If the 477  
victim is indigent or otherwise is unable to obtain the services 478  
of counsel, the court, upon request, may appoint counsel to 479  
represent the victim without cost to the victim. 480

**Sec. 2907.06.** (A) No person shall have sexual contact with 481  
another, ~~not the spouse of the offender;~~ cause another, ~~not the~~ 482  
~~spouse of the offender,~~ to have sexual contact with the 483  
offender; or cause two or more other persons to have sexual 484  
contact when any of the following applies: 485

(1) The offender knows that the sexual contact is 486  
offensive to the other person, or one of the other persons, or 487  
is reckless in that regard. 488

(2) The offender knows that the other person's, or one of 489  
the other person's, ability to appraise the nature of or control 490  
the offender's or touching person's conduct is substantially 491  
impaired. 492

(3) The offender knows that the other person, or one of 493  
the other persons, submits because of being unaware of the 494  
sexual contact. 495

(4) The other person, or one of the other persons, is 496  
thirteen years of age or older but less than sixteen years of 497  
age, whether or not the offender knows the age of such person, 498  
and the offender is at least eighteen years of age and four or 499  
more years older than such other person. 500

(5) The offender is a mental health professional, the 501  
other person or one of the other persons is a mental health 502  
client or patient of the offender, and the offender induces the 503  
other person who is the client or patient to submit by falsely 504  
representing to the other person who is the client or patient 505  
that the sexual contact is necessary for mental health treatment 506  
purposes. 507

(B) No person shall be convicted of a violation of this 508  
section solely upon the victim's testimony unsupported by other 509  
evidence. 510

(C) Whoever violates this section is guilty of sexual 511  
imposition, a misdemeanor of the third degree. If the offender 512  
previously has been convicted of or pleaded guilty to a 513  
violation of this section or of section 2907.02, 2907.03, 514

2907.04, or 2907.05, or former section 2907.12 of the Revised Code, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section or section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 2907.12 of the Revised Code, or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in section 2929.24 of the Revised Code, the court may impose on the offender a definite jail term of not more than one year.

**Sec. 2907.07.** (A) No person shall solicit a person who is less than thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person.

(B)(1) No person shall solicit another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of the other person.

(2) No person shall solicit another, ~~not the spouse of the offender,~~ to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, the other person is sixteen or seventeen years of age and a victim of a violation of section 2905.32 of the Revised Code, and the offender knows or has reckless disregard of the age of the other person.

(C) No person shall solicit another by means of a

telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:

(1) The other person is less than thirteen years of age, and the offender knows that the other person is less than thirteen years of age or is reckless in that regard.

(2) The other person is a law enforcement officer posing as a person who is less than thirteen years of age, and the offender believes that the other person is less than thirteen years of age or is reckless in that regard.

(D) No person shall solicit another by means of a telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:

(1) The other person is thirteen years of age or older but less than sixteen years of age, the offender knows that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the other person.

(2) The other person is a law enforcement officer posing as a person who is thirteen years of age or older but less than sixteen years of age, the offender believes that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the age the law enforcement officer assumes in posing as the person who is thirteen years of age or older but less than sixteen years of age.

(E) Divisions (C) and (D) of this section apply to any 574  
solicitation that is contained in a transmission via a 575  
telecommunications device that either originates in this state 576  
or is received in this state. 577

(F) (1) Whoever violates this section is guilty of 578  
importuning. 579

(2) Except as otherwise provided in this division, a 580  
violation of division (A) or (C) of this section is a felony of 581  
the third degree on a first offense, and, notwithstanding 582  
division (C) of section 2929.13 of the Revised Code, there is a 583  
presumption that a prison term shall be imposed as described in 584  
division (D) of section 2929.13 of the Revised Code. If the 585  
offender previously has been convicted of a sexually oriented 586  
offense or a child-victim oriented offense, a violation of 587  
division (A) or (C) of this section is a felony of the second 588  
degree, and the court shall impose upon the offender as a 589  
mandatory prison term one of the definite prison terms 590  
prescribed in division (A) (2) (b) of section 2929.14 of the 591  
Revised Code for a felony of the second degree, except that if 592  
the violation is committed on or after ~~the effective date of~~ 593  
~~this amendment~~ March 22, 2019, the court shall impose as the 594  
minimum prison term for the offense a mandatory prison term that 595  
is one of the minimum terms prescribed in division (A) (2) (a) of 596  
that section for a felony of the second degree. 597

(3) A violation of division (B) or (D) of this section is 598  
a felony of the fifth degree on a first offense, and, 599  
notwithstanding division (B) of section 2929.13 of the Revised 600  
Code, there is a presumption that a prison term shall be imposed 601  
as described in division (D) of section 2929.13 of the Revised 602  
Code. If the offender previously has been convicted of a 603

sexually oriented offense or a child-victim oriented offense, a 604  
violation of division (B) or (D) of this section is a felony of 605  
the fourth degree, and the court shall impose upon the offender 606  
as a mandatory prison term one of the prison terms prescribed in 607  
section 2929.14 of the Revised Code for a felony of the fourth 608  
degree that is not less than twelve months in duration. 609

**Sec. 2933.82.** (A) As used in this section: 610

(1) (a) "Biological evidence" means any of the following: 611

(i) The contents of a sexual assault examination kit; 612

(ii) Any item that contains blood, semen, hair, saliva, 613  
skin tissue, fingernail scrapings, bone, bodily fluids, or any 614  
other identifiable biological material that was collected as 615  
part of a criminal investigation or delinquent child 616  
investigation and that reasonably may be used to incriminate or 617  
exculpate any person for an offense or delinquent act. 618

(b) The definition of "biological evidence" set forth in 619  
division (A) (1) (a) of this section applies whether the material 620  
in question is cataloged separately, such as on a slide or swab 621  
or in a test tube, or is present on other evidence, including, 622  
but not limited to, clothing, ligatures, bedding or other 623  
household material, drinking cups or containers, or cigarettes. 624

(2) "Biological material" has the same meaning as in 625  
section 2953.71 of the Revised Code. 626

(3) "DNA," "DNA analysis," "DNA database," "DNA record," 627  
and "DNA specimen" have the same meanings as in section 109.573 628  
of the Revised Code. 629

(4) "Prosecutor" has the same meaning as in section 630  
2935.01 of the Revised Code. 631

(5) "Governmental evidence-retention entity" means all of 632  
the following: 633

(a) Any law enforcement agency, prosecutor's office, 634  
court, public hospital, crime laboratory, or other governmental 635  
or public entity or individual within this state that is charged 636  
with the collection, storage, or retrieval of biological 637  
evidence; 638

(b) Any official or employee of any entity or individual 639  
described in division (A) (5) (a) of this section. 640

(B) (1) Each governmental evidence-retention entity that 641  
secures any biological evidence in relation to an investigation 642  
or prosecution of a criminal offense or delinquent act that is a 643  
violation of section 2903.01, 2903.02, or 2903.03, a violation 644  
of section 2903.04 or 2903.06 that is a felony of the first or 645  
second degree, a violation of section 2907.02 or 2907.03 or 646  
division (A) (4) or (B) of section 2907.05 of the Revised Code, 647  
or an attempt to commit a violation of section 2907.02 of the 648  
Revised Code shall secure the biological evidence for whichever 649  
of the following periods of time is applicable: 650

(a) For a violation of section 2903.01 ~~or~~, 2903.02, or 651  
2907.02 of the Revised Code, or an attempt to commit a violation 652  
of section 2907.02 of the Revised Code, for the period of time 653  
that the offense or act remains unsolved; 654

(b) For a violation of section 2903.03, a violation of 655  
section 2903.04 or 2903.06 that is a felony of the first or 656  
second degree, a violation of section ~~2907.02 or 2907.03 or of~~ 657  
division (A) (4) or (B) of section 2907.05 of the Revised Code, 658  
~~or an attempt to commit a violation of section 2907.02 of the~~ 659  
~~Revised Code,~~ for a period of thirty years if the offense or act 660

remains unsolved; 661

(c) If any person is convicted of or pleads guilty to the 662  
offense, or is adjudicated a delinquent child for committing the 663  
delinquent act, for the earlier of the following: (i) the 664  
expiration of the latest of the following periods of time that 665  
apply to the person: the period of time that the person is 666  
incarcerated, is in a department of youth services institution 667  
or other juvenile facility, is under a community control 668  
sanction for that offense, is under any order of disposition for 669  
that act, is on probation or parole for that offense, is under 670  
judicial release or supervised release for that act, is under 671  
post-release control for that offense, is involved in civil 672  
litigation in connection with that offense or act, or is subject 673  
to registration and other duties imposed for that offense or act 674  
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 675  
Revised Code or (ii) thirty years. If after the period of thirty 676  
years the person remains incarcerated, then the governmental 677  
evidence-retention entity shall secure the biological evidence 678  
until the person is released from incarceration or dies. 679

(2) (a) A law enforcement agency shall review all of its 680  
records and reports pertaining to its investigation of any 681  
offense specified in division (B) (1) of this section as soon as 682  
possible after March 23, 2015. If the law enforcement agency's 683  
review determines that one or more persons may have committed or 684  
participated in an offense specified in division (B) (1) of this 685  
section or another offense committed during the course of an 686  
offense specified in division (B) (1) of this section and the 687  
agency is in possession of a sexual assault examination kit 688  
secured during the course of the agency's investigation, as soon 689  
as possible, but not later than one year after March 23, 2015, 690  
the agency shall forward the contents of the kit to the bureau 691

of criminal identification and investigation or another crime 692  
laboratory for a DNA analysis of the contents of the kit if a 693  
DNA analysis has not previously been performed on the contents 694  
of the kit. The law enforcement agency shall consider the period 695  
of time remaining under section 2901.13 of the Revised Code for 696  
commencing the prosecution of a criminal offense related to the 697  
DNA specimens from the kit as well as other relevant factors in 698  
prioritizing the forwarding of the contents of sexual assault 699  
examination kits. 700

(b) If an investigation is initiated on or after March 23, 701  
2015, and if a law enforcement agency investigating an offense 702  
specified in division (B) (1) of this section determines that one 703  
or more persons may have committed or participated in an offense 704  
specified in division (B) (1) of this section or another offense 705  
committed during the course of an offense specified in division 706  
(B) (1) of this section, the law enforcement agency shall forward 707  
the contents of a sexual assault examination kit in the agency's 708  
possession to the bureau or another crime laboratory within 709  
thirty days for a DNA analysis of the contents of the kit. 710

(c) A law enforcement agency shall be considered in the 711  
possession of a sexual assault examination kit that is not in 712  
the law enforcement agency's possession for purposes of 713  
divisions (B) (2) (a) and (b) of this section if the sexual 714  
assault examination kit contains biological evidence related to 715  
the law enforcement agency's investigation of an offense 716  
specified in division (B) (1) of this section and is in the 717  
possession of another government evidence-retention entity. The 718  
law enforcement agency shall be responsible for retrieving the 719  
sexual assault examination kit from the government evidence- 720  
retention entity and forwarding the contents of the kit to the 721  
bureau or another crime laboratory as required under divisions 722

(B) (2) (a) and (b) of this section. 723

(d) (i) The bureau or a laboratory under contract with the 724  
bureau pursuant to division (B) (5) of section 109.573 of the 725  
Revised Code shall perform a DNA analysis of the contents of any 726  
sexual assault examination kit forwarded to the bureau pursuant 727  
to division (B) (2) (a) or (b) of this section as soon as possible 728  
after the bureau receives the contents of the kit. The bureau 729  
shall enter the resulting DNA record into a DNA database. If the 730  
DNA analysis is performed by a laboratory under contract with 731  
the bureau, the laboratory shall forward the biological evidence 732  
to the bureau immediately after the laboratory performs the DNA 733  
analysis. A crime laboratory shall perform a DNA analysis of the 734  
contents of any sexual assault examination kit forwarded to the 735  
crime laboratory pursuant to division (B) (2) (a) or (b) of this 736  
section as soon as possible after the crime laboratory receives 737  
the contents of the kit and shall enter the resulting DNA record 738  
into a DNA database subject to the applicable DNA index system 739  
standards. 740

(ii) Upon the completion of the DNA analysis by the bureau 741  
or a crime laboratory under contract with the bureau under this 742  
division, the bureau shall return the contents of the sexual 743  
assault examination kit to the law enforcement agency. The law 744  
enforcement agency shall secure the contents of the sexual 745  
assault examination kit in accordance with division (B) (1) of 746  
this section, as applicable. 747

(e) The failure of any law enforcement agency to comply 748  
with any time limit specified in this section shall not create, 749  
and shall not be construed as creating, any basis or right to 750  
appeal, claim for or right to postconviction relief, or claim 751  
for or right to a new trial or any other claim or right to 752

relief by any person. 753

(3) This section applies to evidence likely to contain 754  
biological material that was in the possession of any 755  
governmental evidence-retention entity during the investigation 756  
and prosecution of a criminal case or delinquent child case 757  
involving a violation of section 2903.01, 2903.02, or 2903.03, a 758  
violation of section 2903.04 or 2903.06 that is a felony of the 759  
first or second degree, a violation of section 2907.02 or 760  
2907.03 or of division (A) (4) or (B) of section 2907.05 of the 761  
Revised Code, or an attempt to commit a violation of section 762  
2907.02 of the Revised Code. 763

(4) A governmental evidence-retention entity that 764  
possesses biological evidence shall retain the biological 765  
evidence in the amount and manner sufficient to develop a DNA 766  
record from the biological material contained in or included on 767  
the evidence. 768

(5) Upon written request by the defendant in a criminal 769  
case or the alleged delinquent child in a delinquent child case 770  
involving a violation of section 2903.01, 2903.02, or 2903.03, a 771  
violation of section 2903.04 or 2903.06 that is a felony of the 772  
first or second degree, a violation of section 2907.02 or 773  
2907.03 or of division (A) (4) or (B) of section 2907.05 of the 774  
Revised Code, or an attempt to commit a violation of section 775  
2907.02 of the Revised Code, a governmental evidence-retention 776  
entity that possesses biological evidence shall prepare an 777  
inventory of the biological evidence that has been preserved in 778  
connection with the defendant's criminal case or the alleged 779  
delinquent child's delinquent child case. 780

(6) Except as otherwise provided in division (B) (8) of 781  
this section, a governmental evidence-retention entity that 782

possesses biological evidence that includes biological material 783  
may destroy the evidence before the expiration of the applicable 784  
period of time specified in division (B) (1) of this section if 785  
all of the following apply: 786

(a) No other provision of federal or state law requires 787  
the state to preserve the evidence. 788

(b) The governmental evidence-retention entity, by 789  
certified mail, return receipt requested, provides notice of 790  
intent to destroy the evidence to all of the following: 791

(i) All persons who remain in custody, incarcerated, in a 792  
department of youth services institution or other juvenile 793  
facility, under a community control sanction, under any order of 794  
disposition, on probation or parole, under judicial release or 795  
supervised release, under post-release control, involved in 796  
civil litigation, or subject to registration and other duties 797  
imposed for that offense or act under sections 2950.04, 798  
2950.041, 2950.05, and 2950.06 of the Revised Code as a result 799  
of a criminal conviction, delinquency adjudication, or 800  
commitment related to the evidence in question; 801

(ii) The attorney of record for each person who is in 802  
custody in any circumstance described in division (B) (6) (b) (i) 803  
of this section if the attorney of record can be located; 804

(iii) The state public defender; 805

(iv) The office of the prosecutor of record in the case 806  
that resulted in the custody of the person in custody in any 807  
circumstance described in division (B) (6) (b) (i) of this section; 808

(v) The attorney general. 809

(c) No person who is notified under division (B) (6) (b) of 810

this section does either of the following within one year after 811  
the date on which the person receives the notice: 812

(i) Files a motion for testing of evidence under sections 813  
2953.71 to 2953.81 or section 2953.82 of the Revised Code; 814

(ii) Submits a written request for retention of evidence 815  
to the governmental evidence-retention entity that provided 816  
notice of its intent to destroy evidence under division (B) (6) 817  
(b) of this section. 818

(7) Except as otherwise provided in division (B) (8) of 819  
this section, if, after providing notice under division (B) (6) 820  
(b) of this section of its intent to destroy evidence, a 821  
governmental evidence-retention entity receives a written 822  
request for retention of the evidence from any person to whom 823  
the notice is provided, the governmental evidence-retention 824  
entity shall retain the evidence while the person referred to in 825  
division (B) (6) (b) (i) of this section remains in custody, 826  
incarcerated, in a department of youth services institution or 827  
other juvenile facility, under a community control sanction, 828  
under any order of disposition, on probation or parole, under 829  
judicial release or supervised release, under post-release 830  
control, involved in civil litigation, or subject to 831  
registration and other duties imposed for that offense or act 832  
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 833  
Revised Code as a result of a criminal conviction, delinquency 834  
adjudication, or commitment related to the evidence in question. 835

(8) A governmental evidence-retention entity that 836  
possesses biological evidence that includes biological material 837  
may destroy the evidence five years after a person pleads guilty 838  
or no contest to a violation of section 2903.01, 2903.02, or 839  
2903.03, a violation of section 2903.04 or 2903.06 that is a 840

felony of the first or second degree, a violation of section 841  
2907.02, 2907.03, division (A) (4) or (B) of section 2907.05, or 842  
an attempt to commit a violation of section 2907.02 of the 843  
Revised Code and all appeals have been exhausted unless, upon a 844  
motion to the court by the person who pleaded guilty or no 845  
contest or the person's attorney and notice to those persons 846  
described in division (B) (6) (b) of this section requesting that 847  
the evidence not be destroyed, the court finds good cause as to 848  
why that evidence must be retained. 849

(9) A governmental evidence-retention entity shall not be 850  
required to preserve physical evidence pursuant to this section 851  
that is of such a size, bulk, or physical character as to render 852  
retention impracticable. When retention of physical evidence 853  
that otherwise would be required to be retained pursuant to this 854  
section is impracticable as described in this division, the 855  
governmental evidence-retention entity that otherwise would be 856  
required to retain the physical evidence shall remove and 857  
preserve portions of the material evidence likely to contain 858  
biological evidence related to the offense, in a quantity 859  
sufficient to permit future DNA testing before returning or 860  
disposing of that physical evidence. 861

(C) The office of the attorney general shall administer 862  
and conduct training programs for law enforcement officers and 863  
other relevant employees who are charged with preserving and 864  
cataloging biological evidence regarding the methods and 865  
procedures referenced in this section. 866

**Sec. 2945.42.** No person is disqualified as a witness in a 867  
criminal prosecution by reason of the person's interest in the 868  
prosecution as a party or otherwise or by reason of the person's 869  
conviction of crime. Husband and wife are competent witnesses to 870

testify in behalf of each other in all criminal prosecutions and 871  
to testify against each other in all actions, prosecutions, and 872  
proceedings for personal injury of either by the other, bigamy, 873  
or failure to provide for, neglect of, or cruelty to their 874  
children under eighteen years of age or their physically or 875  
mentally handicapped child under twenty-one years of age. A 876  
spouse may testify against his or her spouse in a prosecution 877  
under a provision of sections 2903.11 to 2903.13, 2919.21, 878  
2919.22, or 2919.25 of the Revised Code for cruelty to, neglect 879  
of, or abandonment of such spouse, in a prosecution against his 880  
or her spouse under section 2903.211 or 2911.211, of the Revised 881  
Code for the commission of the offense against the spouse who is 882  
testifying, in a prosecution under section 2919.27 of the 883  
Revised Code involving a protection order issued or consent 884  
agreement approved pursuant to section 2919.26 or 3113.31 of the 885  
Revised Code for the commission of the offense against the 886  
spouse who is testifying, or in a prosecution under section 887  
2907.02 of the Revised Code for the commission of rape, under 888  
section 2907.03 of the Revised Code for the commission of sexual 889  
battery, under section 2907.04 of the Revised Code for the 890  
commission of unlawful sexual conduct with a minor, under 891  
section 2907.05 for the commission of gross sexual imposition, 892  
under section 2907.06 for the commission of sexual imposition, 893  
under division (B) (2) of section 2907.07 for the commission of 894  
importuning, or under former section 2907.12 of the Revised Code 895  
for felonious sexual penetration against such spouse in a case 896  
in which the offense can be committed against a spouse. Such 897  
interest, conviction, or relationship may be shown for the 898  
purpose of affecting the credibility of the witness. Husband or 899  
wife shall not testify concerning a communication made by one to 900  
the other, or act done by either in the presence of the other, 901  
during coverture, unless the communication was made or act done 902

in the known presence or hearing of a third person competent to 903  
be a witness, or in case of personal injury by either the 904  
husband or wife to the other, or rape or the former offense of 905  
felonious sexual penetration in a case in which the offense can 906  
be committed against a spouse, or sexual battery, unlawful 907  
sexual conduct with a minor, gross sexual imposition, sexual 908  
imposition, importuning, public indecency, or bigamy, or failure 909  
to provide for, or neglect or cruelty of either to their 910  
children under eighteen years of age or their physically or 911  
mentally handicapped child under twenty-one years of age, 912  
violation of a protection order or consent agreement, or neglect 913  
or abandonment of a spouse under a provision of those sections. 914  
The presence or whereabouts of the husband or wife is not an act 915  
under this section. The rule is the same if the marital relation 916  
has ceased to exist. 917

**Section 2.** That existing sections 2901.13, 2907.02, 918  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2933.82, and 919  
2945.42 of the Revised Code are hereby repealed. 920

**Section 3.** That the versions of sections 2907.02 and 921  
2907.05 of the Revised Code that are scheduled to take effect 922  
March 22, 2020, be amended to read as follows: 923

**Sec. 2907.02.** (A) (1) No person shall engage in sexual 924  
conduct with another ~~who is not the spouse of the offender or~~ 925  
~~who is the spouse of the offender but is living separate and~~ 926  
~~apart from the offender,~~ when any of the following applies: 927

(a) For the purpose of preventing resistance, the offender 928  
substantially impairs the other person's judgment or control by 929  
administering any drug, intoxicant, or controlled substance to 930  
the other person surreptitiously or by force, threat of force, 931  
or deception. 932

(b) The other person is less than thirteen years of age, 933  
whether or not the offender knows the age of the other person. 934

(c) The other person's ability to resist or consent is 935  
substantially impaired because of a mental or physical condition 936  
or because of advanced age, and the offender knows or has 937  
reasonable cause to believe that the other person's ability to 938  
resist or consent is substantially impaired because of a mental 939  
or physical condition or because of advanced age. 940

(2) No person shall engage in sexual conduct with another 941  
when the offender purposely compels the other person to submit 942  
by force or threat of force. 943

(B) Whoever violates this section is guilty of rape, a 944  
felony of the first degree. If the offender under division (A) 945  
(1) (a) of this section substantially impairs the other person's 946  
judgment or control by administering any controlled substance, 947  
as defined in section 3719.01 of the Revised Code, to the other 948  
person surreptitiously or by force, threat of force, or 949  
deception, the prison term imposed upon the offender shall be 950  
one of the definite prison terms prescribed for a felony of the 951  
first degree in division (A) (1) (b) of section 2929.14 of the 952  
Revised Code that is not less than five years, except that if 953  
the violation is committed on or after ~~the effective date of~~ 954  
~~this amendment~~ March 22, 2019, the court shall impose as the 955  
minimum prison term for the offense a mandatory prison term that 956  
is one of the minimum terms prescribed for a felony of the first 957  
degree in division (A) (1) (a) of section 2929.14 of the Revised 958  
Code that is not less than five years. Except as otherwise 959  
provided in this division, notwithstanding sections 2929.11 to 960  
2929.14 of the Revised Code, an offender under division (A) (1) 961  
(b) of this section shall be sentenced to a prison term or term 962

of life imprisonment pursuant to section 2971.03 of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division. If an offender under division (A) (1) (b) of this section previously has been convicted of or pleaded guilty to violating division (A) (1) (b) of this section or to violating an existing or former law of this state, another state, or the United States that is substantially similar to division (A) (1) (b) of this section, if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, or if the victim under division (A) (1) (b) of this section is less than ten years of age, in lieu of sentencing the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, the court may impose upon the offender a term of life without parole. If the court imposes a term of life without parole pursuant to this division, division (F) of section 2971.03 of the Revised Code applies, and the offender automatically is classified a tier III sex offender/child-victim offender, as described in that division.

(C) A victim need not prove physical resistance to the 995  
offender in prosecutions under this section. 996

(D) Evidence of specific instances of the victim's sexual 997  
activity, opinion evidence of the victim's sexual activity, and 998  
reputation evidence of the victim's sexual activity shall not be 999  
admitted under this section unless it involves evidence of the 1000  
origin of semen, pregnancy, or disease, or the victim's past 1001  
sexual activity with the offender, and only to the extent that 1002  
the court finds that the evidence is material to a fact at issue 1003  
in the case and that its inflammatory or prejudicial nature does 1004  
not outweigh its probative value. 1005

Evidence of specific instances of the defendant's sexual 1006  
activity, opinion evidence of the defendant's sexual activity, 1007  
and reputation evidence of the defendant's sexual activity shall 1008  
not be admitted under this section unless it involves evidence 1009  
of the origin of semen, pregnancy, or disease, the defendant's 1010  
past sexual activity with the victim, or is admissible against 1011  
the defendant under section 2945.59 of the Revised Code, and 1012  
only to the extent that the court finds that the evidence is 1013  
material to a fact at issue in the case and that its 1014  
inflammatory or prejudicial nature does not outweigh its 1015  
probative value. 1016

(E) Prior to taking testimony or receiving evidence of any 1017  
sexual activity of the victim or the defendant in a proceeding 1018  
under this section, the court shall resolve the admissibility of 1019  
the proposed evidence in a hearing in chambers, which shall be 1020  
held at or before preliminary hearing and not less than three 1021  
days before trial, or for good cause shown during the trial. 1022

(F) Upon approval by the court, the victim may be 1023  
represented by counsel in any hearing in chambers or other 1024

proceeding to resolve the admissibility of evidence. If the 1025  
victim is indigent or otherwise is unable to obtain the services 1026  
of counsel, the court, upon request, may appoint counsel to 1027  
represent the victim without cost to the victim. 1028

(G) It is not a defense to a charge under division (A) (2) 1029  
of this section that the offender and the victim were married or 1030  
were cohabiting at the time of the commission of the offense. 1031

**Sec. 2907.05.** (A) No person shall have sexual contact with 1032  
another, ~~not the spouse of the offender;~~ cause another, ~~not the~~ 1033  
~~spouse of the offender,~~ to have sexual contact with the 1034  
offender; or cause two or more other persons to have sexual 1035  
contact when any of the following applies: 1036

(1) The offender purposely compels the other person, or 1037  
one of the other persons, to submit by force or threat of force. 1038

(2) For the purpose of preventing resistance, the offender 1039  
substantially impairs the judgment or control of the other 1040  
person or of one of the other persons by administering any drug, 1041  
intoxicant, or controlled substance to the other person 1042  
surreptitiously or by force, threat of force, or deception. 1043

(3) The offender knows that the judgment or control of the 1044  
other person or of one of the other persons is substantially 1045  
impaired as a result of the influence of any drug or intoxicant 1046  
administered to the other person with the other person's consent 1047  
for the purpose of any kind of medical or dental examination, 1048  
treatment, or surgery. 1049

(4) The other person, or one of the other persons, is less 1050  
than thirteen years of age, whether or not the offender knows 1051  
the age of that person. 1052

(5) The ability of the other person to resist or consent 1053

or the ability of one of the other persons to resist or consent 1054  
is substantially impaired because of a mental or physical 1055  
condition or because of advanced age, and the offender knows or 1056  
has reasonable cause to believe that the ability to resist or 1057  
consent of the other person or of one of the other persons is 1058  
substantially impaired because of a mental or physical condition 1059  
or because of advanced age. 1060

(B) No person shall knowingly touch the genitalia of 1061  
another, when the touching is not through clothing, the other 1062  
person is less than twelve years of age, whether or not the 1063  
offender knows the age of that person, and the touching is done 1064  
with an intent to abuse, humiliate, harass, degrade, or arouse 1065  
or gratify the sexual desire of any person. 1066

(C) Whoever violates this section is guilty of gross 1067  
sexual imposition. 1068

(1) Except as otherwise provided in this section, gross 1069  
sexual imposition committed in violation of division (A) (1), 1070  
(2), (3), or (5) of this section is a felony of the fourth 1071  
degree. If the offender under division (A) (2) of this section 1072  
substantially impairs the judgment or control of the other 1073  
person or one of the other persons by administering any 1074  
controlled substance, as defined in section 3719.01 of the 1075  
Revised Code, to the person surreptitiously or by force, threat 1076  
of force, or deception, gross sexual imposition committed in 1077  
violation of division (A) (2) of this section is a felony of the 1078  
third degree. 1079

(2) Gross sexual imposition committed in violation of 1080  
division (A) (4) or (B) of this section is a felony of the third 1081  
degree. Except as otherwise provided in this division, for gross 1082  
sexual imposition committed in violation of division (A) (4) or 1083

(B) of this section there is a presumption that a prison term shall be imposed for the offense. The court shall impose on an offender convicted of gross sexual imposition in violation of division (A) (4) or (B) of this section a mandatory prison term, as described in division (C) (3) of this section, for a felony of the third degree if either of the following applies:

(a) Evidence other than the testimony of the victim was admitted in the case corroborating the violation;

(b) The offender previously was convicted of or pleaded guilty to a violation of this section, rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.

(3) A mandatory prison term required under division (C) (2) of this section shall be a definite term from the range of prison terms provided in division (A) (3) (a) of section 2929.14 of the Revised Code for a felony of the third degree.

(D) A victim need not prove physical resistance to the offender in prosecutions under this section.

(E) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

Evidence of specific instances of the defendant's sexual

activity, opinion evidence of the defendant's sexual activity, 1113  
and reputation evidence of the defendant's sexual activity shall 1114  
not be admitted under this section unless it involves evidence 1115  
of the origin of semen, pregnancy, or disease, the defendant's 1116  
past sexual activity with the victim, or is admissible against 1117  
the defendant under section 2945.59 of the Revised Code, and 1118  
only to the extent that the court finds that the evidence is 1119  
material to a fact at issue in the case and that its 1120  
inflammatory or prejudicial nature does not outweigh its 1121  
probative value. 1122

(F) Prior to taking testimony or receiving evidence of any 1123  
sexual activity of the victim or the defendant in a proceeding 1124  
under this section, the court shall resolve the admissibility of 1125  
the proposed evidence in a hearing in chambers, which shall be 1126  
held at or before preliminary hearing and not less than three 1127  
days before trial, or for good cause shown during the trial. 1128

(G) Upon approval by the court, the victim may be 1129  
represented by counsel in any hearing in chambers or other 1130  
proceeding to resolve the admissibility of evidence. If the 1131  
victim is indigent or otherwise is unable to obtain the services 1132  
of counsel, the court, upon request, may appoint counsel to 1133  
represent the victim without cost to the victim. 1134

**Section 4.** That the existing versions of sections 2907.02 1135  
and 2907.05 of the Revised Code that are scheduled to take 1136  
effect March 22, 2020, are hereby repealed. 1137

**Section 5.** Sections 3 and 4 of this act shall take effect 1138  
March 22, 2020. 1139

**Section 6.** Section 2305.117 of the Revised Code, as 1140  
enacted by this act, applies to a cause of action that accrues 1141

on or after the effective date of this act. 1142

**Section 7.** Section 2901.13 of the Revised Code, as amended 1143  
by this act, applies to an offense committed on and after the 1144  
effective date of this act and applies to an offense committed 1145  
prior to the effective date of this act if prosecution for that 1146  
offense was not barred under section 2901.13 of the Revised Code 1147  
as it existed on the day prior to the effective date of this 1148  
act. 1149

**Section 8.** Sections 2907.02 and 2907.05 of the Revised 1150  
Code are presented in Section 3 of this act as composites of the 1151  
sections as amended by both Am. Sub. S.B. 201 and Sub. S.B. 229 1152  
of the 132nd General Assembly. The General Assembly, applying 1153  
the principle stated in division (B) of section 1.52 of the 1154  
Revised Code that amendments are to be harmonized if reasonably 1155  
capable of simultaneous operation, finds that the composites are 1156  
the resulting versions of the sections in effect prior to the 1157  
effective date of the sections as presented in this act. 1158