



320 7<sup>th</sup> Avenue, #161  
Brooklyn, NY 11215  
(212) 475-2026  
joyfulheartfoundation.org

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June 5, 2023

**TO:** House Committee on Criminal Justice  
**FROM:** Ilse Knecht  
Director of Policy & Advocacy  
Joyful Heart Foundation

## **RE: Testimony in Support of Assembly Bill 1368**

The Joyful Heart Foundation strongly supports House Bill 161, a bill that would remove antiquated language in state law and outlaw marital rape, currently allowable under Ohio law.

HB161 makes it clear to offenders that rape is rape in Ohio, no matter your relationship to the victim. Just this year, Maryland and Mississippi removed the spousal rape exceptions from their laws. It's time for Ohio to do the same. We are grateful to Representatives Jessica Miranda and Brett Hillyer for championing this important legislation and we urge the committee to approve it.

### **History**

Laws with spousal rape exceptions, like Ohio's, are based on the opinion of Sir Matthew Hale in the 1600's that a "husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind to her husband which she cannot retract". Spousal rape exemptions are a holdover from the time when women were considered property of their husbands and were considered unable to decline sexual relations with them. These laws promote the idea that when a person consents to marriage they consent to sexual intercourse at any time during marriage, and forced sex by a husband is acceptable.

States began removing marital rape loopholes in the 1970s. Today, only a handful of states have spousal rape exceptions or some level of tolerance for nonconsensual sex with a person that is married to you. Just this year, two states removed this antiquated language. Mississippi enacted HB995 first in April of 2023 and Maryland enacted SB129 in May of 2023.

### **Prevalence**

One in four women have experienced an attempted or completed rape in their lifetime. Most survivors of sexual assault know their attacker; 45% of rape victims are raped by an intimate partner. Research has found that the majority of

women who are physically abused by an intimate partner have also been sexually assaulted by the same partner. Estimates are that between 10 and 14% of married women experience rape in marriage. Tragically, eighteen percent of those said their children witnessed the crime.

It's important to understand that rape is a severely underreported crime. Only 25% of rape victims reported the [crime](#) to police in 2018, one of the lowest numbers ever. The percentage of married women who report a spousal rape is even lower. This may be in part because they know the law does not protect them and they believe that law enforcement still holds on to antiquated notions that a husband cannot rape his wife.

## Impact of rape

Victims of sexual assault may experience short- or long-term physical, emotional, social, and mental effects from the violence inflicted upon them. Research about adult sexual assault survivors shows that they are at significantly increased risk of anxiety, depression, suicidality, post-traumatic stress disorder (PTSD), substance abuse, obsessive-compulsive disorder, and bipolar disorder. In fact, 94% of female survivors experience post-traumatic stress disorder during the two weeks following the rape, and 90% nine months after the assault. Many face PTSD much of their lifetime. Survivors often struggle with alcohol and drug dependence. Victims may experience self-harming behaviors, have suicidal ideation or attempt suicide. It is important to note that [intimate partner sexual assault](#) is more likely than stranger or acquaintance assault to cause physical injury, STIs, unwanted pregnancy, and psychological trauma. In addition, in situations where the assailant lives with or is the intimate partner of the victim, the continuing access to the survivor can increase the traumatic impact. Marital rape victims are also in heightened danger because they may still live with their assailant and can be repeatedly attacked — especially if the rapist knows they won't be prosecuted.

These exemptions send a terrible message to both offenders and survivors that this type of rape is not as serious as other types of rape. The truth is that women who have been raped by their intimate partner suffer greatly.

## False Reports Concerns

In response to the concern that women will use this to their advantage against husbands in custody or divorce proceedings, that occurs with or without a criminal law against rape. No other state has experienced the “floodgates” opening after outlawing spousal rape. This concern comes from a myth that reports of sexual assault are often false. Research shows that false reports of sexual assault are similar to other crimes, and make up only about 2-10% of total reports.

Regardless, the potential misuse of a law is not a reason to not pass it. This could be an argument against many laws. Consider car theft. Should we not prohibit it because the law is misused by people looking for an insurance payout, e.g., false reports to law enforcement that a car was stolen? Rapists should not benefit from concerns about some people misusing the law and filing false reports.

Rape is rarely prosecuted. In fact, only 1% of rapists ever spend a day in jail. Prosecutors have broad discretion over what cases they prosecute and they don't take cases that lack clear evidence. The bar is very high. There is no reason to believe that there will be greatly increasing numbers of marital rape cases being prosecuted in Ohio.

## Conclusion

Ohio is now among just a handful of states with laws that allow husbands to sexual assault their wives with impunity. Boyfriends and other intimate partners are not spared prosecution for rape of their partner. Married women deserve the same protection as other women; a legally sanctioned relationship should not create permission to inflict harm on another person. It is time for Ohio to rid state law of the spousal rape exemption and join the long list of states that have already done so. Please vote yes on this historically crucial bill.

Respectfully submitted,

Ilse Knecht

A handwritten signature in cursive script that reads "Ilse Knecht".

Director, Policy and Advocacy  
Joyful Heart Foundation  
(212) 475-2026  
[i.knecht@joyfulheartfoundation.org](mailto:i.knecht@joyfulheartfoundation.org)