



House Bill 161 Proponent Testimony

Zachary Miller, Legislative Policy Manager

Senate Judiciary Committee

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Chair Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee:

On behalf of the Office of the Ohio Public Defender (OPD), thank you for the opportunity to submit proponent testimony on House Bill 161 (HB 161). We support the bill's elimination of what is known as the "spousal exception" to specific sex offenses under the Ohio Revised Code. The OPD provides legal representation to indigent Ohioans accused of a crime, and we believe HB 161 is a commonsense bill that ensures Ohioans receive equal protection and justice under the law, regardless of their marital status and their relationship with the accused offender.

All individuals accused of a sexual offense are entitled to due process under the law. They are presumed innocent until proven guilty and are entitled to a fair trial. Equally, victims of sexual offense are entitled to due process. Ohioans should not have to give up their personal autonomy and their right to justice because they decide to get married.

Currently, Ohio law allows for a severe injustice for victims of sexual abuse, creating a loophole that protects one accused of raping their spouse from prosecution if there is no "threat of force or violence." This flawed language means one who drugs and renders their spouse unconscious, then sexually assaults them, can avoid prosecution under the law.

This gap in the Ohio law has real consequences. Thirty-three percent of rapes are committed by a current or former spouse, boyfriend, or girlfriend.¹ Fifty-one percent of female victims of rape reported being raped by an intimate partner.²

¹ Rape, Abuse, & Incest National Network (April 15, 2024); <https://www.rainn.org/statistics/perpetrators-sexual-violence> .

² National Sexual Violence Resource Center (April 15, 2024); <https://www.nsvrc.org/statistics> .



HB 161 addresses this gap by removing the spousal exception to the sexual offenses of rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, and sexual imposition. The bill further permits one to testify against their spouse in a prosecution for these same sexual offenses. These changes were long ago recommended in the Ohio Criminal Justice Recodification Committee's final report in 2017 and it is time they become law of land.

Spouses do not own each other, nor do they waive their right to justice under the law just for getting married. Furthermore, individuals deserve the right to decline sexual activity, even to their spouse. Those who force sexual activity on their spouses are not immune from justice and it is time Ohio law reflects such. The OPD applauds the bipartisan support of HB 161 in the House and urges this committee's support and passage.

Sincerely,



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