

**As Reported by the Senate Judiciary Committee**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 161**

**Representatives Miranda, Hillyer**

**Cosponsors: Representatives Williams, Abdullahi, Abrams, Baker, Bird, Brennan, Brown, Carruthers, Click, Creech, Cross, Cutrona, Dell'Aquila, Dobos, Edwards, Forhan, Ghanbari, Grim, Hall, Hoops, Humphrey, Isaacsohn, John, Jones, Lampton, Lightbody, Liston, Loychik, Mathews, McNally, Miller, A., Miller, J., Miller, K., Mohamed, Oelslager, Pavliga, Richardson, Robb Blasdel, Russo, Schmidt, Somani, Sweeney, Thomas, C., Weinstein, Willis, Young, T.**

**Senator Manning**

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**A BILL**

To amend sections 2907.02, 2907.03, 2907.04, 1  
2907.05, 2907.06, 2907.07, and 2945.42 of the 2  
Revised Code to eliminate the spousal exceptions 3  
for the offenses of rape, sexual battery, 4  
unlawful sexual conduct with a minor, gross 5  
sexual imposition, sexual imposition, and 6  
importuning and to permit a person to testify 7  
against the person's spouse in a prosecution for 8  
any of those offenses. 9

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

**Section 1.** That sections 2907.02, 2907.03, 2907.04, 10  
2907.05, 2907.06, 2907.07, and 2945.42 of the Revised Code be 11  
amended to read as follows: 12

**Sec. 2907.02.** (A) (1) No person shall engage in sexual 13  
conduct with another ~~who is not the spouse of the offender or~~ 14

~~who is the spouse of the offender but is living separate and~~ 15  
~~apart from the offender,~~ when any of the following applies: 16

(a) For the purpose of preventing resistance, the offender 17  
substantially impairs the other person's judgment or control by 18  
administering any drug, intoxicant, or controlled substance to 19  
the other person surreptitiously or by force, threat of force, 20  
or deception. 21

(b) The other person is less than thirteen years of age, 22  
whether or not the offender knows the age of the other person. 23

(c) The other person's ability to resist or consent is 24  
substantially impaired because of a mental or physical condition 25  
or because of advanced age, and the offender knows or has 26  
reasonable cause to believe that the other person's ability to 27  
resist or consent is substantially impaired because of a mental 28  
or physical condition or because of advanced age. 29

(2) No person shall engage in sexual conduct with another 30  
when the offender purposely compels the other person to submit 31  
by force or threat of force. 32

(B) Whoever violates this section is guilty of rape, a 33  
felony of the first degree. If the offender under division (A) 34  
(1) (a) of this section substantially impairs the other person's 35  
judgment or control by administering any controlled substance, 36  
as defined in section 3719.01 of the Revised Code, to the other 37  
person surreptitiously or by force, threat of force, or 38  
deception, the prison term imposed upon the offender shall be 39  
one of the definite prison terms prescribed for a felony of the 40  
first degree in division (A) (1) (b) of section 2929.14 of the 41  
Revised Code that is not less than five years, except that if 42  
the violation is committed on or after March 22, 2019, the court 43

shall impose as the minimum prison term for the offense a 44  
mandatory prison term that is one of the minimum terms 45  
prescribed for a felony of the first degree in division (A) (1) 46  
(a) of section 2929.14 of the Revised Code that is not less than 47  
five years. Except as otherwise provided in this division, 48  
notwithstanding sections 2929.11 to 2929.14 of the Revised Code, 49  
an offender under division (A) (1) (b) of this section shall be 50  
sentenced to a prison term or term of life imprisonment pursuant 51  
to section 2971.03 of the Revised Code. If an offender is 52  
convicted of or pleads guilty to a violation of division (A) (1) 53  
(b) of this section, if the offender was less than sixteen years 54  
of age at the time the offender committed the violation of that 55  
division, and if the offender during or immediately after the 56  
commission of the offense did not cause serious physical harm to 57  
the victim, the victim was ten years of age or older at the time 58  
of the commission of the violation, and the offender has not 59  
previously been convicted of or pleaded guilty to a violation of 60  
this section or a substantially similar existing or former law 61  
of this state, another state, or the United States, the court 62  
shall not sentence the offender to a prison term or term of life 63  
imprisonment pursuant to section 2971.03 of the Revised Code, 64  
and instead the court shall sentence the offender as otherwise 65  
provided in this division. If an offender under division (A) (1) 66  
(b) of this section previously has been convicted of or pleaded 67  
guilty to violating division (A) (1) (b) of this section or to 68  
violating an existing or former law of this state, another 69  
state, or the United States that is substantially similar to 70  
division (A) (1) (b) of this section, if the offender during or 71  
immediately after the commission of the offense caused serious 72  
physical harm to the victim, or if the victim under division (A) 73  
(1) (b) of this section is less than ten years of age, in lieu of 74  
sentencing the offender to a prison term or term of life 75

imprisonment pursuant to section 2971.03 of the Revised Code, 76  
except as otherwise provided in this division, the court may 77  
impose upon the offender a term of life without parole. If the 78  
court imposes a term of life without parole pursuant to this 79  
division, division (F) of section 2971.03 of the Revised Code 80  
applies, and the offender automatically is classified a tier III 81  
sex offender/child-victim offender, as described in that 82  
division. A court shall not impose a term of life without parole 83  
on an offender for rape if the offender was under eighteen years 84  
of age at the time of the offense. 85

(C) A victim need not prove physical resistance to the 86  
offender in prosecutions under this section. 87

(D) Evidence of specific instances of the victim's sexual 88  
activity, opinion evidence of the victim's sexual activity, and 89  
reputation evidence of the victim's sexual activity shall not be 90  
admitted under this section unless it involves evidence of the 91  
origin of semen, pregnancy, or disease, or the victim's past 92  
sexual activity with the offender, and only to the extent that 93  
the court finds that the evidence is material to a fact at issue 94  
in the case and that its inflammatory or prejudicial nature does 95  
not outweigh its probative value. 96

Evidence of specific instances of the defendant's sexual 97  
activity, opinion evidence of the defendant's sexual activity, 98  
and reputation evidence of the defendant's sexual activity shall 99  
not be admitted under this section unless it involves evidence 100  
of the origin of semen, pregnancy, or disease, the defendant's 101  
past sexual activity with the victim, or is admissible against 102  
the defendant under section 2945.59 of the Revised Code, and 103  
only to the extent that the court finds that the evidence is 104  
material to a fact at issue in the case and that its 105

inflammatory or prejudicial nature does not outweigh its 106  
probative value. 107

(E) Prior to taking testimony or receiving evidence of any 108  
sexual activity of the victim or the defendant in a proceeding 109  
under this section, the court shall resolve the admissibility of 110  
the proposed evidence in a hearing in chambers, which shall be 111  
held at or before preliminary hearing and not less than three 112  
days before trial, or for good cause shown during the trial. 113

(F) Upon approval by the court, the victim may be 114  
represented by counsel in any hearing in chambers or other 115  
proceeding to resolve the admissibility of evidence. If the 116  
victim is indigent or otherwise is unable to obtain the services 117  
of counsel, the court, upon request, may appoint counsel to 118  
represent the victim without cost to the victim. 119

(G) It is not a defense to a charge under division (A) (2) 120  
of this section that the offender and the victim were married or 121  
were cohabiting at the time of the commission of the offense. 122

**Sec. 2907.03.** (A) No person shall engage in sexual conduct 123  
with another, ~~not the spouse of the offender,~~ when any of the 124  
following apply: 125

(1) The offender knowingly coerces the other person to 126  
submit by any means that would prevent resistance by a person of 127  
ordinary resolution. 128

(2) The offender knows that the other person's ability to 129  
appraise the nature of or control the other person's own conduct 130  
is substantially impaired. 131

(3) The offender knows that the other person submits 132  
because the other person is unaware that the act is being 133  
committed. 134

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| (4) The offender knows that the other person submits             | 135 |
| because the other person mistakenly identifies the offender as   | 136 |
| the other person's spouse.                                       | 137 |
| (5) The offender is the other person's natural or adoptive       | 138 |
| parent, or a stepparent, or guardian, custodian, or person in    | 139 |
| loco parentis of the other person.                               | 140 |
| (6) The other person is in custody of law or a patient in        | 141 |
| a hospital or other institution, and the offender has            | 142 |
| supervisory or disciplinary authority over the other person.     | 143 |
| (7) The offender is a teacher, administrator, coach, or          | 144 |
| other person in authority employed by or serving in a school for | 145 |
| which the state board of education prescribes minimum standards  | 146 |
| pursuant to division (D) of section 3301.07 of the Revised Code, | 147 |
| the other person is enrolled in or attends that school, and the  | 148 |
| offender is not enrolled in and does not attend that school.     | 149 |
| (8) The other person is a minor, the offender is a               | 150 |
| teacher, administrator, coach, or other person in authority      | 151 |
| employed by or serving in an institution of higher education,    | 152 |
| and the other person is enrolled in or attends that institution. | 153 |
| (9) The other person is a minor, and the offender is the         | 154 |
| other person's athletic or other type of coach, is the other     | 155 |
| person's instructor, is the leader of a scouting troop of which  | 156 |
| the other person is a member, or is a person with temporary or   | 157 |
| occasional disciplinary control over the other person.           | 158 |
| (10) The offender is a mental health professional, the           | 159 |
| other person is a mental health client or patient of the         | 160 |
| offender, and the offender induces the other person to submit by | 161 |
| falsely representing to the other person that the sexual conduct | 162 |
| is necessary for mental health treatment purposes.               | 163 |

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| (11) The other person is confined in a detention facility,                      | 164 |
| and the offender is an employee of that detention facility.                     | 165 |
| (12) The other person is a minor, the offender is a                             | 166 |
| cleric, and the other person is a member of, or attends, the                    | 167 |
| church or congregation served by the cleric.                                    | 168 |
| (13) The other person is a minor, the offender is a peace                       | 169 |
| officer, and the offender is more than two years older than the                 | 170 |
| other person.   | 171 |
| (B) Whoever violates this section is guilty of sexual                           | 172 |
| battery. Except as otherwise provided in this division, sexual                  | 173 |
| battery is a felony of the third degree. If the other person is                 | 174 |
| less than thirteen years of age, sexual battery is a felony of                  | 175 |
| the second degree, and the court shall impose upon the offender                 | 176 |
| a mandatory prison term equal to one of the definite prison                     | 177 |
| terms prescribed in division (A) (2) (b) of section 2929.14 of the              | 178 |
| Revised Code for a felony of the second degree, except that if                  | 179 |
| the violation is committed on or after <del>the effective date of</del>         | 180 |
| <del>this amendment</del> <u>March 22, 2019</u> , the court shall impose as the | 181 |
| minimum prison term for the offense a mandatory prison term that                | 182 |
| is one of the minimum terms prescribed in division (A) (2) (a) of               | 183 |
| that section for a felony of the second degree.                                 | 184 |
| (C) As used in this section:  | 185 |
| (1) "Cleric" has the same meaning as in section 2317.02 of                      | 186 |
| the Revised Code.   | 187 |
| (2) "Detention facility" has the same meaning as in                             | 188 |
| section 2921.01 of the Revised Code.  | 189 |
| (3) "Institution of higher education" means a state                             | 190 |
| institution of higher education defined in section 3345.011 of                  | 191 |
| the Revised Code, a private nonprofit college or university                     | 192 |

located in this state that possesses a certificate of 193  
authorization issued by the Ohio board of regents pursuant to 194  
Chapter 1713. of the Revised Code, or a school certified under 195  
Chapter 3332. of the Revised Code. 196

(4) "Peace officer" has the same meaning as in section 197  
2935.01 of the Revised Code. 198

**Sec. 2907.04.** (A) No person who is eighteen years of age 199  
or older shall engage in sexual conduct with another, ~~who is not~~ 200  
~~the spouse of the offender,~~ when the offender knows the other 201  
person is thirteen years of age or older but less than sixteen 202  
years of age, or the offender is reckless in that regard. 203

(B) Whoever violates this section is guilty of unlawful 204  
sexual conduct with a minor. 205

(1) Except as otherwise provided in divisions (B) (2), (3), 206  
and (4) of this section, unlawful sexual conduct with a minor is 207  
a felony of the fourth degree. 208

(2) Except as otherwise provided in division (B) (4) of 209  
this section, if the offender is less than four years older than 210  
the other person, unlawful sexual conduct with a minor is a 211  
misdemeanor of the first degree. 212

(3) Except as otherwise provided in division (B) (4) of 213  
this section, if the offender is ten or more years older than 214  
the other person, unlawful sexual conduct with a minor is a 215  
felony of the third degree. 216

(4) If the offender previously has been convicted of or 217  
pleaded guilty to a violation of section 2907.02, 2907.03, or 218  
2907.04 of the Revised Code or a violation of former section 219  
2907.12 of the Revised Code, unlawful sexual conduct with a 220  
minor is a felony of the second degree. 221



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| Sec. 2907.05. (A) No person shall have sexual contact with                            | 222 |
| another, <del>not the spouse of the offender;</del> cause another, <del>not the</del> | 223 |
| <del>spouse of the offender,</del> to have sexual contact with the                    | 224 |
| offender; or cause two or more other persons to have sexual                           | 225 |
| contact when any of the following applies:  | 226 |
| (1) The offender purposely compels the other person, or                               | 227 |
| one of the other persons, to submit by force or threat of force.                      | 228 |
| (2) For the purpose of preventing resistance, the offender                            | 229 |
| substantially impairs the judgment or control of the other                            | 230 |
| person or of one of the other persons by administering any drug,                      | 231 |
| intoxicant, or controlled substance to the other person                               | 232 |
| surreptitiously or by force, threat of force, or deception.                           | 233 |
| (3) The offender knows that the judgment or control of the                            | 234 |
| other person or of one of the other persons is substantially                          | 235 |
| impaired as a result of the influence of any drug or intoxicant                       | 236 |
| administered to the other person with the other person's consent                      | 237 |
| for the purpose of any kind of medical or dental examination,                         | 238 |
| treatment, or surgery.  | 239 |
| (4) The other person, or one of the other persons, is less                            | 240 |
| than thirteen years of age, whether or not the offender knows                         | 241 |
| the age of that person.   | 242 |
| (5) The ability of the other person to resist or consent                              | 243 |
| or the ability of one of the other persons to resist or consent                       | 244 |
| is substantially impaired because of a mental or physical                             | 245 |
| condition or because of advanced age, and the offender knows or                       | 246 |
| has reasonable cause to believe that the ability to resist or                         | 247 |
| consent of the other person or of one of the other persons is                         | 248 |
| substantially impaired because of a mental or physical condition                      | 249 |
| or because of advanced age.   | 250 |

(B) No person shall knowingly touch the genitalia of 251  
another, when the touching is not through clothing, the other 252  
person is less than twelve years of age, whether or not the 253  
offender knows the age of that person, and the touching is done 254  
with an intent to abuse, humiliate, harass, degrade, or arouse 255  
or gratify the sexual desire of any person. 256

(C) Whoever violates this section is guilty of gross 257  
sexual imposition. 258

(1) Except as otherwise provided in this section, gross 259  
sexual imposition committed in violation of division (A) (1), 260  
(2), (3), or (5) of this section is a felony of the fourth 261  
degree. If the offender under division (A) (2) of this section 262  
substantially impairs the judgment or control of the other 263  
person or one of the other persons by administering any 264  
controlled substance, as defined in section 3719.01 of the 265  
Revised Code, to the person surreptitiously or by force, threat 266  
of force, or deception, gross sexual imposition committed in 267  
violation of division (A) (2) of this section is a felony of the 268  
third degree. 269

(2) Gross sexual imposition committed in violation of 270  
division (A) (4) or (B) of this section is a felony of the third 271  
degree. Except as otherwise provided in this division, for gross 272  
sexual imposition committed in violation of division (A) (4) or 273  
(B) of this section there is a presumption that a prison term 274  
shall be imposed for the offense. The court shall impose on an 275  
offender convicted of gross sexual imposition in violation of 276  
division (A) (4) or (B) of this section a mandatory prison term, 277  
as described in division (C) (3) of this section, for a felony of 278  
the third degree if the offender previously was convicted of or 279  
pleaded guilty to a violation of this section, rape, the former 280

offense of felonious sexual penetration, or sexual battery, and 281  
the victim of the previous offense was less than thirteen years 282  
of age. 283

(3) A mandatory prison term required under division (C) (2) 284  
of this section shall be a definite term from the range of 285  
prison terms provided in division (A) (3) (a) of section 2929.14 286  
of the Revised Code for a felony of the third degree. 287

(D) A victim need not prove physical resistance to the 288  
offender in prosecutions under this section. 289

(E) Evidence of specific instances of the victim's sexual 290  
activity, opinion evidence of the victim's sexual activity, and 291  
reputation evidence of the victim's sexual activity shall not be 292  
admitted under this section unless it involves evidence of the 293  
origin of semen, pregnancy, or sexually transmitted disease or 294  
infection, or the victim's past sexual activity with the 295  
offender, and only to the extent that the court finds that the 296  
evidence is material to a fact at issue in the case and that its 297  
inflammatory or prejudicial nature does not outweigh its 298  
probative value. 299

Evidence of specific instances of the defendant's sexual 300  
activity, opinion evidence of the defendant's sexual activity, 301  
and reputation evidence of the defendant's sexual activity shall 302  
not be admitted under this section unless it involves evidence 303  
of the origin of semen, pregnancy, or sexually transmitted 304  
disease or infection, the defendant's past sexual activity with 305  
the victim, or is admissible against the defendant under section 306  
2945.59 of the Revised Code, and only to the extent that the 307  
court finds that the evidence is material to a fact at issue in 308  
the case and that its inflammatory or prejudicial nature does 309  
not outweigh its probative value. 310

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

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

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

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

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

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

(4) The other person, or one of the other persons, is thirteen years of age or older but less than sixteen years of

age, whether or not the offender knows the age of such person, 340  
and the offender is at least eighteen years of age and four or 341  
more years older than such other person. 342

(5) The offender is a mental health professional, the 343  
other person or one of the other persons is a mental health 344  
client or patient of the offender, and the offender induces the 345  
other person who is the client or patient to submit by falsely 346  
representing to the other person who is the client or patient 347  
that the sexual contact is necessary for mental health treatment 348  
purposes. 349

(B) No person shall be convicted of a violation of this 350  
section solely upon the victim's testimony unsupported by other 351  
evidence. 352

(C) Whoever violates this section is guilty of sexual 353  
imposition, a misdemeanor of the third degree. If the offender 354  
previously has been convicted of or pleaded guilty to a 355  
violation of this section or of section 2907.02, 2907.03, 356  
2907.04, or 2907.05, or former section 2907.12 of the Revised 357  
Code, a violation of this section is a misdemeanor of the first 358  
degree. If the offender previously has been convicted of or 359  
pleaded guilty to three or more violations of this section or 360  
section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 361  
2907.12 of the Revised Code, or of any combination of those 362  
sections, a violation of this section is a misdemeanor of the 363  
first degree and, notwithstanding the range of jail terms 364  
prescribed in section 2929.24 of the Revised Code, the court may 365  
impose on the offender a definite jail term of not more than one 366  
year. 367

**Sec. 2907.07.** (A) No person shall solicit a person who is 368  
less than thirteen years of age to engage in sexual activity 369

with the offender, whether or not the offender knows the age of 370  
such person. 371

(B) (1) No person shall solicit another, not the spouse of 372  
the offender, to engage in sexual conduct with the offender, 373  
when the offender is eighteen years of age or older and four or 374  
more years older than the other person, and the other person is 375  
thirteen years of age or older but less than sixteen years of 376  
age, whether or not the offender knows the age of the other 377  
person. 378

(2) No person shall solicit another, ~~not the spouse of the~~ 379  
~~offender,~~ to engage in sexual conduct with the offender, when 380  
the offender is eighteen years of age or older and four or more 381  
years older than the other person, the other person is sixteen 382  
or seventeen years of age and a victim of a violation of section 383  
2905.32 of the Revised Code, and the offender knows or has 384  
reckless disregard of the age of the other person. 385

(C) No person shall solicit a person who is less than 386  
sixteen years of age to engage in sexual activity with the 387  
offender when the person who is less than sixteen years of age 388  
is substantially impaired because of a mental or physical 389  
condition. 390

(D) No person shall solicit another by means of a 391  
telecommunications device, as defined in section 2913.01 of the 392  
Revised Code, to engage in sexual activity with the offender 393  
when the offender is eighteen years of age or older and either 394  
of the following applies: 395

(1) The other person is less than thirteen years of age, 396  
and the offender knows that the other person is less than 397  
thirteen years of age or is reckless in that regard. 398

(2) The other person is a law enforcement officer posing 399  
as a person who is less than thirteen years of age, and the 400  
offender believes that the other person is less than thirteen 401  
years of age or is reckless in that regard. 402

(E) No person shall solicit another by means of a 403  
telecommunications device, as defined in section 2913.01 of the 404  
Revised Code, to engage in sexual activity with the offender 405  
when the offender is eighteen years of age or older and either 406  
of the following applies: 407

(1) The other person is thirteen years of age or older but 408  
less than sixteen years of age, the offender knows that the 409  
other person is thirteen years of age or older but less than 410  
sixteen years of age or is reckless in that regard, and the 411  
offender is four or more years older than the other person. 412

(2) The other person is a law enforcement officer posing 413  
as a person who is thirteen years of age or older but less than 414  
sixteen years of age, the offender believes that the other 415  
person is thirteen years of age or older but less than sixteen 416  
years of age or is reckless in that regard, and the offender is 417  
four or more years older than the age the law enforcement 418  
officer assumes in posing as the person who is thirteen years of 419  
age or older but less than sixteen years of age. 420

(F) Divisions (D) and (E) of this section apply to any 421  
solicitation that is contained in a transmission via a 422  
telecommunications device that either originates in this state 423  
or is received in this state. 424

(G) (1) Whoever violates this section is guilty of 425  
importuning. 426

(2) A violation of division (A), (C), or (D) of this 427

section is a felony of the third degree on a first offense, and, 428  
notwithstanding division (C) of section 2929.13 of the Revised 429  
Code, there is a presumption that a prison term shall be imposed 430  
as described in division (D) of section 2929.13 of the Revised 431  
Code. If the offender, in addition to soliciting the other 432  
person, arranged to meet the other person for the purpose of 433  
engaging in sexual activity, the court shall impose upon the 434  
offender as a mandatory prison term one of the prison terms 435  
prescribed in division (A) (3) (b) of section 2929.14 of the 436  
Revised Code for a felony of the third degree. 437

If the offender previously has been convicted of a 438  
sexually oriented offense or a child-victim oriented offense, a 439  
violation of division (A), (C), or (D) of this section is a 440  
felony of the second degree, and the court shall impose upon the 441  
offender as a mandatory prison term one of the definite prison 442  
terms prescribed in division (A) (2) (b) of section 2929.14 of the 443  
Revised Code for a felony of the second degree, except that if 444  
the violation is committed on or after March 22, 2019, the court 445  
shall impose as the minimum prison term for the offense a 446  
mandatory prison term that is one of the minimum terms 447  
prescribed in division (A) (2) (a) of that section for a felony of 448  
the second degree. 449

(3) A violation of division (B) or (E) of this section is 450  
a felony of the fifth degree on a first offense, and, 451  
notwithstanding division (B) of section 2929.13 of the Revised 452  
Code, there is a presumption that a prison term shall be imposed 453  
as described in division (D) of section 2929.13 of the Revised 454  
Code. The court shall impose upon the offender as a mandatory 455  
prison term one of the prison terms prescribed in section 456  
2929.14 of the Revised Code for a felony of the fifth degree if 457  
both of the following apply: 458



|   |   |
|---|---|
| (a) Either of the following applies:  | 459   |
| (i) The offender is ten or more years older than the other person.  | 460<br>461  |
| (ii) Regarding a violation of division (E) (2) of this section, a law enforcement officer posed as a person thirteen years of age or older but less than sixteen years of age and the offender is ten or more years older than the officer claimed to be.   | 462<br>463<br>464<br>465<br>466   |
| (b) In addition to soliciting the other person, the offender arranged to meet the other person for the purpose of engaging in sexual activity.  | 467<br>468<br>469   |
| (4) If the offender previously has been convicted of a sexually oriented offense or a child-victim oriented offense, a violation of division (B) or (E) of this section is a felony of the fourth degree, and the court shall impose upon the offender as a mandatory prison term one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the fourth degree that is not less than twelve months in duration.  | 470<br>471<br>472<br>473<br>474<br>475<br>476                             |
| <b>Sec. 2945.42.</b> No person is disqualified as a witness in a criminal prosecution by reason of the person's interest in the prosecution as a party or otherwise or by reason of the person's conviction of crime. Husband and wife are competent witnesses to testify in behalf of each other in all criminal prosecutions and to testify against each other in all actions, prosecutions, and proceedings for personal injury of either by the other, bigamy, or failure to provide for, neglect of, or cruelty to their children under eighteen years of age or their physically or mentally handicapped child under twenty-one years of age. A spouse may testify against his or her spouse in a prosecution | 477<br>478<br>479<br>480<br>481<br>482<br>483<br>484<br>485<br>486<br>487 |

under a provision of sections 2903.11 to 2903.13, 2919.21, 488  
2919.22, or 2919.25 of the Revised Code for cruelty to, neglect 489  
of, or abandonment of such spouse, in a prosecution against his 490  
or her spouse under section 2903.211 or 2911.211~~7~~ of the Revised 491  
Code for the commission of the offense against the spouse who is 492  
testifying, in a prosecution under section 2919.27 of the 493  
Revised Code involving a protection order issued or consent 494  
agreement approved pursuant to section 2919.26 or 3113.31 of the 495  
Revised Code for the commission of the offense against the 496  
spouse who is testifying, or in a prosecution under section 497  
2907.02 of the Revised Code for the commission of rape, under 498  
section 2907.03 of the Revised Code for the commission of sexual 499  
battery, under section 2907.04 of the Revised Code for the 500  
commission of unlawful sexual conduct with a minor, under 501  
section 2907.05 of the Revised Code for the commission of gross 502  
sexual imposition, under section 2907.06 of the Revised Code for 503  
the commission of sexual imposition, under division (B)(2) of 504  
section 2907.07 of the Revised Code for the commission of 505  
importuning, or under former section 2907.12 of the Revised Code 506  
for felonious sexual penetration against such spouse in a case 507  
in which the offense can be committed against a spouse. Such 508  
interest, conviction, or relationship may be shown for the 509  
purpose of affecting the credibility of the witness. Husband or 510  
wife shall not testify concerning a communication made by one to 511  
the other, or act done by either in the presence of the other, 512  
during coverture, unless the communication was made or act done 513  
in the known presence or hearing of a third person competent to 514  
be a witness, or in case of personal injury by either the 515  
husband or wife to the other, or rape or the former offense of 516  
felonious sexual penetration in a case in which the offense can 517  
be committed against a spouse, or sexual battery, unlawful 518  
sexual conduct with a minor, gross sexual imposition, sexual 519

imposition, importuning, public indecency, or bigamy, or failure 520  
to provide for, or neglect or cruelty of either to their 521  
children under eighteen years of age or their physically or 522  
mentally handicapped child under twenty-one years of age, 523  
violation of a protection order or consent agreement, or neglect 524  
or abandonment of a spouse under a provision of those sections. 525  
The presence or whereabouts of the husband or wife is not an act 526  
under this section. The rule is the same if the marital relation 527  
has ceased to exist. 528

**Section 2.** That existing sections 2907.02, 2907.03, 529  
2907.04, 2907.05, 2907.06, 2907.07, and 2945.42 of the Revised 530  
Code are hereby repealed. 531

**Section 3.** Section 2907.05 of the Revised Code is 532  
presented in this act as a composite of the section as amended 533  
by H.B. 343 and S.B. 288, both of the 134th General Assembly. 534  
The General Assembly, applying the principle stated in division 535  
(B) of section 1.52 of the Revised Code that amendments are to 536  
be harmonized if reasonably capable of simultaneous operation, 537  
finds that the composite is the resulting version of the section 538  
in effect prior to the effective date of the section as 539  
presented in this act. 540