

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 121**

**Representatives Lanese, Boggs**

**Cosponsors: Representatives Sweeney, Miranda, Crossman, Liston, Russo,  
Miller, A., Carfagna, Young, T., Galonski, Weinstein, Lepore-Hagan, Crawley**

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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 ~~the effective date of~~ 43  
~~this amendment~~ March 22, 2019, the court shall impose as the 44  
minimum prison term for the offense a mandatory prison term that 45  
is one of the minimum terms prescribed for a felony of the first 46  
degree in division (A) (1) (a) of section 2929.14 of the Revised 47

Code that is not less than five years. Except as otherwise 48  
provided in this division, notwithstanding sections 2929.11 to 49  
2929.14 of the Revised Code, an offender under division (A) (1) 50  
(b) of this section shall be sentenced to a prison term or term 51  
of life imprisonment pursuant to section 2971.03 of the Revised 52  
Code. If an offender is convicted of or pleads guilty to a 53  
violation of division (A) (1) (b) of this section, if the offender 54  
was less than sixteen years of age at the time the offender 55  
committed the violation of that division, and if the offender 56  
during or immediately after the commission of the offense did 57  
not cause serious physical harm to the victim, the victim was 58  
ten years of age or older at the time of the commission of the 59  
violation, and the offender has not previously been convicted of 60  
or pleaded guilty to a violation of this section or a 61  
substantially similar existing or former law of this state, 62  
another state, or the United States, the court shall not 63  
sentence the offender to a prison term or term of life 64  
imprisonment pursuant to section 2971.03 of the Revised Code, 65  
and instead the court shall sentence the offender as otherwise 66  
provided in this division. If an offender under division (A) (1) 67  
(b) of this section previously has been convicted of or pleaded 68  
guilty to violating division (A) (1) (b) of this section or to 69  
violating an existing or former law of this state, another 70  
state, or the United States that is substantially similar to 71  
division (A) (1) (b) of this section, if the offender during or 72  
immediately after the commission of the offense caused serious 73  
physical harm to the victim, or if the victim under division (A) 74  
(1) (b) of this section is less than ten years of age, in lieu of 75  
sentencing the offender to a prison term or term of life 76  
imprisonment pursuant to section 2971.03 of the Revised Code, 77  
the court may impose upon the offender a term of life without 78  
parole. If the court imposes a term of life without parole 79

pursuant to this division, division (F) of section 2971.03 of 80  
the Revised Code applies, and the offender automatically is 81  
classified a tier III sex offender/child-victim offender, as 82  
described in that division. 83

(C) A victim need not prove physical resistance to the 84  
offender in prosecutions under this section. 85

(D) Evidence of specific instances of the victim's sexual 86  
activity, opinion evidence of the victim's sexual activity, and 87  
reputation evidence of the victim's sexual activity shall not be 88  
admitted under this section unless it involves evidence of the 89  
origin of semen, pregnancy, or disease, or the victim's past 90  
sexual activity with the offender, and only to the extent that 91  
the court finds that the evidence is material to a fact at issue 92  
in the case and that its inflammatory or prejudicial nature does 93  
not outweigh its probative value. 94

Evidence of specific instances of the defendant's sexual 95  
activity, opinion evidence of the defendant's sexual activity, 96  
and reputation evidence of the defendant's sexual activity shall 97  
not be admitted under this section unless it involves evidence 98  
of the origin of semen, pregnancy, or disease, the defendant's 99  
past sexual activity with the victim, or is admissible against 100  
the defendant under section 2945.59 of the Revised Code, and 101  
only to the extent that the court finds that the evidence is 102  
material to a fact at issue in the case and that its 103  
inflammatory or prejudicial nature does not outweigh its 104  
probative value. 105

(E) Prior to taking testimony or receiving evidence of any 106  
sexual activity of the victim or the defendant in a proceeding 107  
under this section, the court shall resolve the admissibility of 108  
the proposed evidence in a hearing in chambers, which shall be 109

held at or before preliminary hearing and not less than three 110  
days before trial, or for good cause shown during the trial. 111

(F) Upon approval by the court, the victim may be 112  
represented by counsel in any hearing in chambers or other 113  
proceeding to resolve the admissibility of evidence. If the 114  
victim is indigent or otherwise is unable to obtain the services 115  
of counsel, the court, upon request, may appoint counsel to 116  
represent the victim without cost to the victim. 117

(G) It is not a defense to a charge under division (A) (2) 118  
of this section that the offender and the victim were married or 119  
were cohabiting at the time of the commission of the offense. 120

**Sec. 2907.03.** (A) No person shall engage in sexual conduct 121  
with another, ~~not the spouse of the offender,~~ when any of the 122  
following apply: 123

(1) The offender knowingly coerces the other person to 124  
submit by any means that would prevent resistance by a person of 125  
ordinary resolution. 126

(2) The offender knows that the other person's ability to 127  
appraise the nature of or control the other person's own conduct 128  
is substantially impaired. 129

(3) The offender knows that the other person submits 130  
because the other person is unaware that the act is being 131  
committed. 132

(4) The offender knows that the other person submits 133  
because the other person mistakenly identifies the offender as 134  
the other person's spouse. 135

(5) The offender is the other person's natural or adoptive 136  
parent, or a stepparent, or guardian, custodian, or person in 137

loco parentis of the other person.	138
(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.	139 140 141
(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.	142 143 144 145 146 147
(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.	148 149 150 151
(9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person.	152 153 154 155 156
(10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.	157 158 159 160 161
(11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.	162 163
(12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.	164 165 166

(13) The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person. 167  
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(B) Whoever violates this section is guilty of sexual battery. Except as otherwise provided in this division, sexual battery is a felony of the third degree. If the other person is less than thirteen years of age, sexual battery is a felony of the second degree, and the court shall impose upon the offender a mandatory prison term equal to one of the definite prison terms prescribed in division (A) (2) (b) of section 2929.14 of the Revised Code for a felony of the second degree, except that if the violation is committed on or after ~~the effective date of this amendment~~ March 22, 2019, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed in division (A) (2) (a) of that section for a felony of the second degree. 170  
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(C) As used in this section: 183

(1) "Cleric" has the same meaning as in section 2317.02 of the Revised Code. 184  
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(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code. 186  
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(3) "Institution of higher education" means a state institution of higher education defined in section 3345.011 of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or a school certified under Chapter 3332. of the Revised Code. 188  
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(4) "Peace officer" has the same meaning as in section 195

2935.01 of the Revised Code.	196
<b>Sec. 2907.04.</b> (A) No person who is eighteen years of age	197
or older shall engage in sexual conduct with another, <del>who is not</del>	198
<del>the spouse of the offender,</del> when the offender knows the other	199
person is thirteen years of age or older but less than sixteen	200
years of age, or the offender is reckless in that regard.	201
(B) Whoever violates this section is guilty of unlawful	202
sexual conduct with a minor.	203
(1) Except as otherwise provided in divisions (B) (2), (3),	204
and (4) of this section, unlawful sexual conduct with a minor is	205
a felony of the fourth degree.	206
(2) Except as otherwise provided in division (B) (4) of	207
this section, if the offender is less than four years older than	208
the other person, unlawful sexual conduct with a minor is a	209
misdemeanor of the first degree.	210
(3) Except as otherwise provided in division (B) (4) of	211
this section, if the offender is ten or more years older than	212
the other person, unlawful sexual conduct with a minor is a	213
felony of the third degree.	214
(4) If the offender previously has been convicted of or	215
pleaded guilty to a violation of section 2907.02, 2907.03, or	216
2907.04 of the Revised Code or a violation of former section	217
2907.12 of the Revised Code, unlawful sexual conduct with a	218
minor is a felony of the second degree.	219
<b>Sec. 2907.05.</b> (A) No person shall have sexual contact with	220
another, <del>not the spouse of the offender;</del> cause another, <del>not the</del>	221
<del>spouse of the offender,</del> to have sexual contact with the	222
offender; or cause two or more other persons to have sexual	223
contact when any of the following applies:	224



(1) The offender purposely compels the other person, or	225
one of the other persons, to submit by force or threat of force.	226
(2) For the purpose of preventing resistance, the offender	227
substantially impairs the judgment or control of the other	228
person or of one of the other persons by administering any drug,	229
intoxicant, or controlled substance to the other person	230
surreptitiously or by force, threat of force, or deception.	231
(3) The offender knows that the judgment or control of the	232
other person or of one of the other persons is substantially	233
impaired as a result of the influence of any drug or intoxicant	234
administered to the other person with the other person's consent	235
for the purpose of any kind of medical or dental examination,	236
treatment, or surgery.	237
(4) The other person, or one of the other persons, is less	238
than thirteen years of age, whether or not the offender knows	239
the age of that person.	240
(5) The ability of the other person to resist or consent	241
or the ability of one of the other persons to resist or consent	242
is substantially impaired because of a mental or physical	243
condition or because of advanced age, and the offender knows or	244
has reasonable cause to believe that the ability to resist or	245
consent of the other person or of one of the other persons is	246
substantially impaired because of a mental or physical condition	247
or because of advanced age.	248
(B) No person shall knowingly touch the genitalia of	249
another, when the touching is not through clothing, the other	250
person is less than twelve years of age, whether or not the	251
offender knows the age of that person, and the touching is done	252
with an intent to abuse, humiliate, harass, degrade, or arouse	253

or gratify the sexual desire of any person.	254
(C) Whoever violates this section is guilty of gross sexual imposition.	255 256
(1) Except as otherwise provided in this section, gross sexual imposition committed in violation of division (A) (1), (2), (3), or (5) of this section is a felony of the fourth degree. If the offender under division (A) (2) of this section substantially impairs the judgment or control of the other person or one of the other persons by administering any controlled substance, as defined in section 3719.01 of the Revised Code, to the person surreptitiously or by force, threat of force, or deception, gross sexual imposition committed in violation of division (A) (2) of this section is a felony of the third degree.	257 258 259 260 261 262 263 264 265 266 267
(2) Gross sexual imposition committed in violation of division (A) (4) or (B) of this section is a felony of the third degree. Except as otherwise provided in this division, for gross sexual imposition committed in violation of division (A) (4) or (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:	268 269 270 271 272 273 274 275 276 277
(a) Evidence other than the testimony of the victim was admitted in the case corroborating the violation;	278 279
(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	280 281 282

victim of the previous offense was less than thirteen years of 283  
age. 284

(3) A mandatory prison term required under division (C) (2) 285  
of this section shall be a definite term from the range of 286  
prison terms provided in division (A) (3) (a) of section 2929.14 287  
of the Revised Code for a felony of the third degree. 288

(D) A victim need not prove physical resistance to the 289  
offender in prosecutions under this section. 290

(E) Evidence of specific instances of the victim's sexual 291  
activity, opinion evidence of the victim's sexual activity, and 292  
reputation evidence of the victim's sexual activity shall not be 293  
admitted under this section unless it involves evidence of the 294  
origin of semen, pregnancy, or disease, or the victim's past 295  
sexual activity with the offender, and only to the extent that 296  
the court finds that the evidence is material to a fact at issue 297  
in the case and that its inflammatory or prejudicial nature does 298  
not outweigh its 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 disease, the defendant's 304  
past sexual activity with the victim, or is admissible against 305  
the defendant under section 2945.59 of the Revised Code, and 306  
only to the extent that the court finds that the evidence is 307  
material to a fact at issue in the case and that its 308  
inflammatory or prejudicial nature does not outweigh its 309  
probative value. 310

(F) Prior to taking testimony or receiving evidence of any 311

sexual activity of the victim or the defendant in a proceeding 312  
under this section, the court shall resolve the admissibility of 313  
the proposed evidence in a hearing in chambers, which shall be 314  
held at or before preliminary hearing and not less than three 315  
days before trial, or for good cause shown during the trial. 316

(G) Upon approval by the court, the victim may be 317  
represented by counsel in any hearing in chambers or other 318  
proceeding to resolve the admissibility of evidence. If the 319  
victim is indigent or otherwise is unable to obtain the services 320  
of counsel, the court, upon request, may appoint counsel to 321  
represent the victim without cost to the victim. 322

**Sec. 2907.06.** (A) No person shall have sexual contact with 323  
another, ~~not the spouse of the offender;~~ cause another, ~~not the~~ 324  
~~spouse of the offender,~~ to have sexual contact with the 325  
offender; or cause two or more other persons to have sexual 326  
contact when any of the following applies: 327

(1) The offender knows that the sexual contact is 328  
offensive to the other person, or one of the other persons, or 329  
is reckless in that regard. 330

(2) The offender knows that the other person's, or one of 331  
the other person's, ability to appraise the nature of or control 332  
the offender's or touching person's conduct is substantially 333  
impaired. 334

(3) The offender knows that the other person, or one of 335  
the other persons, submits because of being unaware of the 336  
sexual contact. 337

(4) The other person, or one of the other persons, is 338  
thirteen years of age or older but less than sixteen years of 339  
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 another by means of a 386  
telecommunications device, as defined in section 2913.01 of the 387  
Revised Code, to engage in sexual activity with the offender 388  
when the offender is eighteen years of age or older and either 389  
of the following applies: 390

(1) The other person is less than thirteen years of age, 391  
and the offender knows that the other person is less than 392  
thirteen years of age or is reckless in that regard. 393

(2) The other person is a law enforcement officer posing 394  
as a person who is less than thirteen years of age, and the 395  
offender believes that the other person is less than thirteen 396  
years of age or is reckless in that regard. 397

(D) No person shall solicit another by means of a 398  
telecommunications device, as defined in section 2913.01 of the 399

Revised Code, to engage in sexual activity with the offender 400  
when the offender is eighteen years of age or older and either 401  
of the following applies: 402

(1) The other person is thirteen years of age or older but 403  
less than sixteen years of age, the offender knows that the 404  
other person is thirteen years of age or older but less than 405  
sixteen years of age or is reckless in that regard, and the 406  
offender is four or more years older than the other person. 407

(2) The other person is a law enforcement officer posing 408  
as a person who is thirteen years of age or older but less than 409  
sixteen years of age, the offender believes that the other 410  
person is thirteen years of age or older but less than sixteen 411  
years of age or is reckless in that regard, and the offender is 412  
four or more years older than the age the law enforcement 413  
officer assumes in posing as the person who is thirteen years of 414  
age or older but less than sixteen years of age. 415

(E) Divisions (C) and (D) of this section apply to any 416  
solicitation that is contained in a transmission via a 417  
telecommunications device that either originates in this state 418  
or is received in this state. 419

(F) (1) Whoever violates this section is guilty of 420  
importuning. 421

(2) Except as otherwise provided in this division, a 422  
violation of division (A) or (C) of this section is a felony of 423  
the third degree on a first offense, and, notwithstanding 424  
division (C) of section 2929.13 of the Revised Code, there is a 425  
presumption that a prison term shall be imposed as described in 426  
division (D) of section 2929.13 of the Revised Code. If the 427  
offender previously has been convicted of a sexually oriented 428

offense or a child-victim oriented offense, a violation of 429  
division (A) or (C) of this section is a felony of the second 430  
degree, and the court shall impose upon the offender as a 431  
mandatory prison term one of the definite prison terms 432  
prescribed in division (A) (2) (b) of section 2929.14 of the 433  
Revised Code for a felony of the second degree, except that if 434  
the violation is committed on or after ~~the effective date of~~ 435  
~~this amendment~~ March 22, 2019, the court shall impose as the 436  
minimum prison term for the offense a mandatory prison term that 437  
is one of the minimum terms prescribed in division (A) (2) (a) of 438  
that section for a felony of the second degree. 439

(3) A violation of division (B) or (D) of this section is 440  
a felony of the fifth degree on a first offense, and, 441  
notwithstanding division (B) of section 2929.13 of the Revised 442  
Code, there is a presumption that a prison term shall be imposed 443  
as described in division (D) of section 2929.13 of the Revised 444  
Code. If the offender previously has been convicted of a 445  
sexually oriented offense or a child-victim oriented offense, a 446  
violation of division (B) or (D) of this section is a felony of 447  
the fourth degree, and the court shall impose upon the offender 448  
as a mandatory prison term one of the prison terms prescribed in 449  
section 2929.14 of the Revised Code for a felony of the fourth 450  
degree that is not less than twelve months in duration. 451

**Sec. 2945.42.** No person is disqualified as a witness in a 452  
criminal prosecution by reason of the person's interest in the 453  
prosecution as a party or otherwise or by reason of the person's 454  
conviction of crime. Husband and wife are competent witnesses to 455  
testify in behalf of each other in all criminal prosecutions and 456  
to testify against each other in all actions, prosecutions, and 457  
proceedings for personal injury of either by the other, bigamy, 458  
or failure to provide for, neglect of, or cruelty to their 459



children under eighteen years of age or their physically or 460  
mentally handicapped child under twenty-one years of age. A 461  
spouse may testify against his or her spouse in a prosecution 462  
under a provision of sections 2903.11 to 2903.13, 2919.21, 463  
2919.22, or 2919.25 of the Revised Code for cruelty to, neglect 464  
of, or abandonment of such spouse, in a prosecution against his 465  
or her spouse under section 2903.211 or 2911.211~~7~~ of the Revised 466  
Code for the commission of the offense against the spouse who is 467  
testifying, in a prosecution under section 2919.27 of the 468  
Revised Code involving a protection order issued or consent 469  
agreement approved pursuant to section 2919.26 or 3113.31 of the 470  
Revised Code for the commission of the offense against the 471  
spouse who is testifying, or in a prosecution under section 472  
2907.02 of the Revised Code for the commission of rape, under 473  
section 2907.03 of the Revised Code for the commission of sexual 474  
battery, under section 2907.04 of the Revised Code for the 475  
commission of unlawful sexual conduct with a minor, under 476  
section 2907.05 of the Revised Code for the commission of gross 477  
sexual imposition, under section 2907.06 of the Revised Code for 478  
the commission of sexual imposition, under division (B) (2) of 479  
section 2907.07 of the Revised Code for the commission of 480  
importuning, or under former section 2907.12 of the Revised Code 481  
for felonious sexual penetration against such spouse in a case 482  
in which the offense can be committed against a spouse. Such 483  
interest, conviction, or relationship may be shown for the 484  
purpose of affecting the credibility of the witness. Husband or 485  
wife shall not testify concerning a communication made by one to 486  
the other, or act done by either in the presence of the other, 487  
during coverture, unless the communication was made or act done 488  
in the known presence or hearing of a third person competent to 489  
be a witness, or in case of personal injury by either the 490  
husband or wife to the other, or rape or the former offense of 491

felonious sexual penetration in a case in which the offense can 492  
be committed against a spouse, or sexual battery, unlawful 493  
sexual conduct with a minor, gross sexual imposition, sexual 494  
imposition, importuning, public indecency, or bigamy, or failure 495  
to provide for, or neglect or cruelty of either to their 496  
children under eighteen years of age or their physically or 497  
mentally handicapped child under twenty-one years of age, 498  
violation of a protection order or consent agreement, or neglect 499  
or abandonment of a spouse under a provision of those sections. 500  
The presence or whereabouts of the husband or wife is not an act 501  
under this section. The rule is the same if the marital relation 502  
has ceased to exist. 503

**Section 2.** That existing sections 2907.02, 2907.03, 504  
2907.04, 2907.05, 2907.06, 2907.07, and 2945.42 of the Revised 505  
Code are hereby repealed. 506

**Section 3.** The General Assembly, applying the principle 507  
stated in division (B) of section 1.52 of the Revised Code that 508  
amendments are to be harmonized if reasonably capable of 509  
simultaneous operation, finds that the following sections, 510  
presented in this act as composites of the sections as amended 511  
by the acts indicated, are the resulting versions of the 512  
sections in effect prior to the effective date of the sections 513  
as presented in this act: 514

Section 2907.02 of the Revised Code as amended by both 515  
S.B. 201 and S.B. 229 of the 132nd General Assembly. 516

Section 2907.05 of the Revised Code as amended by both 517  
S.B. 201 and S.B. 229 of the 132nd General Assembly. 518