



**Proponent testimony submitted to the
Ohio House Criminal Justice Committee
House Bill 121
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Chair LaRe, Vice Chair Swearingen, Ranking Member Leland and Members of the Ohio House Criminal Justice Committee, thank you for the opportunity to provide testimony in support of House Bill 121, which would eliminate Ohio's spousal exemption for sex offenses. As Ohio's statewide coalition, the Ohio Alliance to End Sexual Violence (OAESV) advocates for comprehensive responses and rape crisis services for survivors and empowers communities to prevent sexual violence.

Intimate partner sexual violence is a serious issue impacting survivors across Ohio. Despite this widespread problem, Ohio is one of only twelve states that has not updated its state code to provide full legal protections to married survivors. Under current Ohio law, certain sex crimes exempt perpetrators who commit sexual violence against their spouses **even though the same actions outside of a marriage would be considered a crime**. For example, if an offender drugs their spouse and sexually assaults them, this would not be a crime. However, if this contact occurred between unmarried persons, the perpetrator would be subject to criminal prosecution. This "spousal exemption" loophole prevents survivors of spousal rape from taking legal action for their wellbeing and safety. As a result, many survivors may have trouble identifying that they have experienced sexual violence, or they may be cautious to question or resist unwanted sexual contact from their partner.¹

When survivors receive the message that what happened to them is not a crime, it can create an insurmountable obstacle to reporting the crime or even seeking help outside of the criminal legal system. For example, the current exemptions in the law for certain² sexual assaults and rapes perpetrated by a spouse preclude those offenses from qualifying as sexually oriented offenses³. **Therefore, married survivors do not qualify for a Sexually Oriented Offense Protection Order** when pursuing protection after drug-induced rape, sexual battery, or gross sexual imposition, and the many egregious acts of sexual violence insulated when committed within a marriage. Protection orders are a critical safety planning tool for many survivors of intimate partner violence and sexual violence. Married survivors are left without this option for their safety in our state, which is concerning due to the severity of these crimes. Sexual violence in a relationship is rarely an isolated incident; it often occurs alongside other forms of abusive behavior, including physical and emotional abuse. We know that more than half of female survivors of rape report being raped by an intimate partner⁴ and that over half of women raped by their spouse report repeat victimization in that relationship, resulting in

¹ Bagwell-Gray, M. E., Messing, J. T., & Baldwin-White, A. (2015). Intimate partner sexual violence: A review of terms, definitions, and prevalence. *Trauma, Violence, & Abuse, 16*(3), 316–335.

² § 2907.02: "... a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception."

³ §§ 2907.02-2907.07 offenses perpetrated by a spouse do not qualify as sexually oriented offenses

⁴ Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., & Stevens, M.R. (2011). *The national intimate partner and sexual violence survey (NISVS): 2010 summary report*. National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf

higher levels of physical injury, longer lasting trauma, and an increased risk for homicide.⁵ We also know that one in ten men experience sexual violence by an intimate partner in their lifetime, even though the stigma surrounding male sexual assault prevents many survivors from coming forward.⁶ Ultimately, there is no “standard” type of abuse. Perpetrators of rape, sexual assault, and intimate partner abuse may engage in certain types of abuse but not others. For that reason, the lack of access to a Sexually Oriented Offense Protection Order can be fatal for survivors who are drugged and raped but not subjected to other types of violence.

Survivors should be encouraged and allowed to use the correct language when discussing their experiences with sexual violence, and our laws must affirm that acts of sexual violence are unlawful. One thing is clear – your relationship to the person who harms you should not limit the options you have for safety, accountability, or healing after experiencing violence. Ohio must act and provide full and equal legal protection to married survivors for all sexual offenses.

OAESV has supported the removal of spousal exemptions to sex offenses since our inception. We have attended the hearings, engaged in meetings, and know that a common argument is that survivors will lie about their abuse for a variety of purposes. OAESV wants to take this opportunity to remind the Committee that **this bill does not alter the Rules of Evidence**. It does not alter the Rules of Criminal Procedure. It does not alter the Rules of Civil Procedure. It does not alter local court rules. In summary, removing the spousal exemption does not remove all of the checks our systems have in place to evaluate the veracity of a claim. The survivor who reports will still have to demonstrate to the court or jury’s satisfaction that they have met the applicable standard⁷ of proof.

Changes to the criminal code happen when we decide as a citizenry that we do not accept certain behaviors in our society. Allowing this exemption to stay on the books tells all Ohioans that we accept spousal rape as within the bounds of socially acceptable behavior. This cannot stand. Ohio cannot continue to allow fears about false reporting, which is the exception rather than the norm^{8,9}, to deter essential changes to the law – changes that will improve health and safety for our entire population. I am available to answer any questions you have or provide any additional information today in person, or via email at rbeltre@oaesv.org. Thank you for your time and attention to this critical legislation.

⁵ Samuels, J.E., Thacker, S.B. (2000). *Full report of the prevalence, incidence, and consequences of violence against women*. National Institute of Justice, Centers for Disease Control and Prevention. <https://www.ncjrs.gov/pdffiles1/nij/183781.pdf>

⁶ *Id*

⁷ For a protection order, a preponderance of the evidence standard; in a criminal prosecution, beyond a reasonable doubt.

⁸ Research demonstrates that the prevalence of false reporting of rape is about the same as it is for other felonies – between 2% and 8%. A large, multi-year, study of sexual assault cases found only a 5.9% rate of false reports.

⁹ Lisak, D., Gardinier, L., Nicksa, S. C., & Cote, A. M. (2010). False allegations of sexual assault: an analysis of ten years of reported cases. *Violence against women*, 16(12), 1318–1334. <https://doi.org/10.1177/1077801210387747>