

As Introduced

133rd General Assembly

Regular Session

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S. B. No. 162

Senators Antonio, O'Brien

**Cosponsors: Senators Craig, Fedor, Kunze, Lehner, Maharath, Sykes, Thomas,
Williams, Yuko**

A BILL

To amend sections 2901.13, 2907.02, 2907.03, 1
2907.04, 2907.05, 2907.06, 2907.07, 2933.82, and 2
2945.42 and to enact section 2305.117 of the 3
Revised Code to eliminate the spousal exceptions 4
for certain sex offenses, to permit a person to 5
testify against the person's spouse in a 6
prosecution for any of those offenses, to 7
eliminate the period of limitation for the 8
criminal prosecution of a person for rape and 9
for a civil action brought by a victim of 10
conduct that would constitute rape, and to amend 11
the versions of sections 2907.02 and 2907.05 of 12
the Revised Code that are scheduled to take 13
effect March 22, 2020, to continue the 14
provisions of this act on and after that 15
effective date. 16

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

Section 1. That sections 2901.13, 2907.02, 2907.03, 17
2907.04, 2907.05, 2907.06, 2907.07, 2933.82, and 2945.42 be 18

amended and section 2305.117 of the Revised Code be enacted to 19
read as follows: 20

Sec. 2305.117. Notwithstanding any other section of the 21
Revised Code to the contrary, there is no period of limitations 22
for a civil action brought by a victim of conduct that would 23
constitute a violation of section 2907.02 of the Revised Code or 24
conduct that would constitute conspiracy to commit, complicity 25
in committing, or attempting to commit a violation of section 26
2907.02 of the Revised Code against the person who committed 27
that conduct. 28

Sec. 2901.13. (A) (1) Except as provided in division (A) 29
(2), (3), or (4) of this section or as otherwise provided in 30
this section, a prosecution shall be barred unless it is 31
commenced within the following periods after an offense is 32
committed: 33

(a) For a felony, six years; 34

(b) For a misdemeanor other than a minor misdemeanor, two 35
years; 36

(c) For a minor misdemeanor, six months. 37

(2) There is no period of limitation for the prosecution 38
of ~~a~~ any of the following offenses: 39

(a) A violation of section 2903.01 ~~or~~, 2903.02, or 40
2907.02 of the Revised Code; 41

(b) A conspiracy to commit, attempt to commit, or 42
complicity in committing a violation of section 2907.02 of the 43
Revised Code. 44

(3) Except as otherwise provided in divisions (B) to (J) 45
of this section, a prosecution of any of the following offenses 46

shall be barred unless it is commenced within twenty years after 47
the offense is committed: 48

(a) A violation of section 2903.03, 2903.04, 2905.01, 49
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 50
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 51
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 52
section 2903.11 or 2903.12 of the Revised Code if the victim is 53
a peace officer, a violation of section 2903.13 of the Revised 54
Code that is a felony, or a violation of former section 2907.12 55
of the Revised Code; 56

(b) A conspiracy to commit, attempt to commit, or 57
complicity in committing a violation set forth in division (A) 58
(3) (a) of this section. 59

(4) Except as otherwise provided in divisions (D) to (L) 60
of this section, a prosecution of a violation of section ~~2907.02~~ 61
~~or~~ 2907.03 of the Revised Code or a conspiracy to commit, 62
attempt to commit, or complicity in committing a violation of 63
~~either that~~ section shall be barred unless it is commenced 64
within twenty-five years after the offense is committed. 65

(B) (1) Except as otherwise provided in division (B) (2) of 66
this section, if the period of limitation provided in division 67
(A) (1) or (3) of this section has expired, prosecution shall be 68
commenced for an offense of which an element is fraud or breach 69
of a fiduciary duty, within one year after discovery of the 70
offense either by an aggrieved person, or by the aggrieved 71
person's legal representative who is not a party to the offense. 72

(2) If the period of limitation provided in division (A) 73
(1) or (3) of this section has expired, prosecution for a 74
violation of section 2913.49 of the Revised Code shall be 75

commenced within five years after discovery of the offense 76
either by an aggrieved person or the aggrieved person's legal 77
representative who is not a party to the offense. 78

(C) (1) If the period of limitation provided in division 79
(A) (1) or (3) of this section has expired, prosecution shall be 80
commenced for the following offenses during the following 81
specified periods of time: 82

(a) For an offense involving misconduct in office by a 83
public servant, at any time while the accused remains a public 84
servant, or within two years thereafter; 85

(b) For an offense by a person who is not a public servant 86
but whose offense is directly related to the misconduct in 87
office of a public servant, at any time while that public 88
servant remains a public servant, or within two years 89
thereafter. 90

(2) As used in this division: 91

(a) An "offense is directly related to the misconduct in 92
office of a public servant" includes, but is not limited to, a 93
violation of section 101.71, 101.91, 121.61 or 2921.13, division 94
(F) or (H) of section 102.03, division (A) of section 2921.02, 95
division (A) or (B) of section 2921.43, or division (F) or (G) 96
of section 3517.13 of the Revised Code, that is directly related 97
to an offense involving misconduct in office of a public 98
servant. 99

(b) "Public servant" has the same meaning as in section 100
2921.01 of the Revised Code. 101

(D) (1) If a DNA record made in connection with the 102
criminal investigation of the commission of a violation of 103
section ~~2907.02~~ or 2907.03 of the Revised Code is determined to 104

match another DNA record that is of an identifiable person and 105
if the time of the determination is later than twenty-five years 106
after the offense is committed, prosecution of that person for a 107
violation of ~~the~~that section may be commenced within five years 108
after the determination is complete. 109

(2) If a DNA record made in connection with the criminal 110
investigation of the commission of a violation of section 111
~~2907.02 or~~ 2907.03 of the Revised Code is determined to match 112
another DNA record that is of an identifiable person and if the 113
time of the determination is within twenty-five years after the 114
offense is committed, prosecution of that person for a violation 115
of ~~the~~that section may be commenced within the longer of 116
twenty-five years after the offense is committed or five years 117
after the determination is complete. 118

(3) As used in this division, "DNA record" has the same 119
meaning as in section 109.573 of the Revised Code. 120

(E) An offense is committed when every element of the 121
offense occurs. In the case of an offense of which an element is 122
a continuing course of conduct, the period of limitation does 123
not begin to run until such course of conduct or the accused's 124
accountability for it terminates, whichever occurs first. 125

(F) A prosecution is commenced on the date an indictment 126
is returned or an information filed, or on the date a lawful 127
arrest without a warrant is made, or on the date a warrant, 128
summons, citation, or other process is issued, whichever occurs 129
first. A prosecution is not commenced by the return of an 130
indictment or the filing of an information unless reasonable 131
diligence is exercised to issue and execute process on the same. 132
A prosecution is not commenced upon issuance of a warrant, 133
summons, citation, or other process, unless reasonable diligence 134

is exercised to execute the same. 135

(G) The period of limitation shall not run during any time 136
when the corpus delicti remains undiscovered. 137

(H) The period of limitation shall not run during any time 138
when the accused purposely avoids prosecution. Proof that the 139
accused departed this state or concealed the accused's identity 140
or whereabouts is prima-facie evidence of the accused's purpose 141
to avoid prosecution. 142

(I) The period of limitation shall not run during any time 143
a prosecution against the accused based on the same conduct is 144
pending in this state, even though the indictment, information, 145
or process that commenced the prosecution is quashed or the 146
proceedings on the indictment, information, or process are set 147
aside or reversed on appeal. 148

(J) The period of limitation for a violation of any 149
provision of Title XXIX of the Revised Code that involves a 150
physical or mental wound, injury, disability, or condition of a 151
nature that reasonably indicates abuse or neglect of a child 152
under eighteen years of age or of a child with a developmental 153
disability or physical impairment under twenty-one years of age 154
shall not begin to run until either of the following occurs: 155

(1) The victim of the offense reaches the age of majority. 156

(2) A public children services agency, or a municipal or 157
county peace officer that is not the parent or guardian of the 158
child, in the county in which the child resides or in which the 159
abuse or neglect is occurring or has occurred has been notified 160
that abuse or neglect is known, suspected, or believed to have 161
occurred. 162

(K) As used in this section, "peace officer" has the same 163

meaning as in section 2935.01 of the Revised Code. 164

(L) The amendments to divisions (A) and (D) of this 165
section apply to a violation of section ~~2907.02~~ or 2907.03 of 166
the Revised Code committed on and after July 16, 2015, and apply 167
to a violation of either of those sections committed prior to 168
July 16, 2015, if prosecution for that violation was not barred 169
under this section as it existed on the day prior to July 16, 170
2015. 171

Sec. 2907.02. (A) (1) No person shall engage in sexual 172
conduct with another ~~who is not the spouse of the offender or~~ 173
~~who is the spouse of the offender but is living separate and~~ 174
~~apart from the offender,~~ when any of the following applies: 175

(a) For the purpose of preventing resistance, the offender 176
substantially impairs the other person's judgment or control by 177
administering any drug, intoxicant, or controlled substance to 178
the other person surreptitiously or by force, threat of force, 179
or deception. 180

(b) The other person is less than thirteen years of age, 181
whether or not the offender knows the age of the other person. 182

(c) The other person's ability to resist or consent is 183
substantially impaired because of a mental or physical condition 184
or because of advanced age, and the offender knows or has 185
reasonable cause to believe that the other person's ability to 186
resist or consent is substantially impaired because of a mental 187
or physical condition or because of advanced age. 188

(2) No person shall engage in sexual conduct with another 189
when the offender purposely compels the other person to submit 190
by force or threat of force. 191

(B) Whoever violates this section is guilty of rape, a 192

felony of the first degree. If the offender under division (A) 193
(1) (a) of this section substantially impairs the other person's 194
judgment or control by administering any controlled substance 195
described in section 3719.41 of the Revised Code to the other 196
person surreptitiously or by force, threat of force, or 197
deception, the prison term imposed upon the offender shall be 198
one of the definite prison terms prescribed for a felony of the 199
first degree in division (A) (1) (b) of section 2929.14 of the 200
Revised Code that is not less than five years, except that if 201
the violation is committed on or after ~~the effective date of~~ 202
~~this amendment~~ March 22, 2019, the court shall impose as the 203
minimum prison term for the offense a mandatory prison term that 204
is one of the minimum terms prescribed for a felony of the first 205
degree in division (A) (1) (a) of section 2929.14 of the Revised 206
Code that is not less than five years. Except as otherwise 207
provided in this division, notwithstanding sections 2929.11 to 208
2929.14 of the Revised Code, an offender under division (A) (1) 209
(b) of this section shall be sentenced to a prison term or term 210
of life imprisonment pursuant to section 2971.03 of the Revised 211
Code. If an offender is convicted of or pleads guilty to a 212
violation of division (A) (1) (b) of this section, if the offender 213
was less than sixteen years of age at the time the offender 214
committed the violation of that division, and if the offender 215
during or immediately after the commission of the offense did 216
not cause serious physical harm to the victim, the victim was 217
ten years of age or older at the time of the commission of the 218
violation, and the offender has not previously been convicted of 219
or pleaded guilty to a violation of this section or a 220
substantially similar existing or former law of this state, 221
another state, or the United States, the court shall not 222
sentence the offender to a prison term or term of life 223
imprisonment pursuant to section 2971.03 of the Revised Code, 224

and instead the court shall sentence the offender as otherwise 225
provided in this division. If an offender under division (A) (1) 226
(b) of this section previously has been convicted of or pleaded 227
guilty to violating division (A) (1) (b) of this section or to 228
violating an existing or former law of this state, another 229
state, or the United States that is substantially similar to 230
division (A) (1) (b) of this section, if the offender during or 231
immediately after the commission of the offense caused serious 232
physical harm to the victim, or if the victim under division (A) 233
(1) (b) of this section is less than ten years of age, in lieu of 234
sentencing the offender to a prison term or term of life 235
imprisonment pursuant to section 2971.03 of the Revised Code, 236
the court may impose upon the offender a term of life without 237
parole. If the court imposes a term of life without parole 238
pursuant to this division, division (F) of section 2971.03 of 239
the Revised Code applies, and the offender automatically is 240
classified a tier III sex offender/child-victim offender, as 241
described in that division. 242

(C) A victim need not prove physical resistance to the 243
offender in prosecutions under this section. 244

(D) Evidence of specific instances of the victim's sexual 245
activity, opinion evidence of the victim's sexual activity, and 246
reputation evidence of the victim's sexual activity shall not be 247
admitted under this section unless it involves evidence of the 248
origin of semen, pregnancy, or disease, or the victim's past 249
sexual activity with the offender, and only to the extent that 250
the court finds that the evidence is material to a fact at issue 251
in the case and that its inflammatory or prejudicial nature does 252
not outweigh its probative value. 253

Evidence of specific instances of the defendant's sexual 254

activity, opinion evidence of the defendant's sexual activity, 255
and reputation evidence of the defendant's sexual activity shall 256
not be admitted under this section unless it involves evidence 257
of the origin of semen, pregnancy, or disease, the defendant's 258
past sexual activity with the victim, or is admissible against 259
the defendant under section 2945.59 of the Revised Code, and 260
only to the extent that the court finds that the evidence is 261
material to a fact at issue in the case and that its 262
inflammatory or prejudicial nature does not outweigh its 263
probative value. 264

(E) Prior to taking testimony or receiving evidence of any 265
sexual activity of the victim or the defendant in a proceeding 266
under this section, the court shall resolve the admissibility of 267
the proposed evidence in a hearing in chambers, which shall be 268
held at or before preliminary hearing and not less than three 269
days before trial, or for good cause shown during the trial. 270

(F) Upon approval by the court, the victim may be 271
represented by counsel in any hearing in chambers or other 272
proceeding to resolve the admissibility of evidence. If the 273
victim is indigent or otherwise is unable to obtain the services 274
of counsel, the court, upon request, may appoint counsel to 275
represent the victim without cost to the victim. 276

(G) It is not a defense to a charge under division (A) (2) 277
of this section that the offender and the victim were married or 278
were cohabiting at the time of the commission of the offense. 279

Sec. 2907.03. (A) No person shall engage in sexual conduct 280
with another, ~~not the spouse of the offender,~~ when any of the 281
following apply: 282

(1) The offender knowingly coerces the other person to 283

submit by any means that would prevent resistance by a person of ordinary resolution.	284 285
(2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.	286 287 288
(3) The offender knows that the other person submits because the other person is unaware that the act is being committed.	289 290 291
(4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.	292 293 294
(5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.	295 296 297
(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.	298 299 300
(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.	301 302 303 304 305 306
(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.	307 308 309 310
(9) The other person is a minor, and the offender is the	311

other person's athletic or other type of coach, is the other 312
person's instructor, is the leader of a scouting troop of which 313
the other person is a member, or is a person with temporary or 314
occasional disciplinary control over the other person. 315

(10) The offender is a mental health professional, the 316
other person is a mental health client or patient of the 317
offender, and the offender induces the other person to submit by 318
falsely representing to the other person that the sexual conduct 319
is necessary for mental health treatment purposes. 320

(11) The other person is confined in a detention facility, 321
and the offender is an employee of that detention facility. 322

(12) The other person is a minor, the offender is a 323
cleric, and the other person is a member of, or attends, the 324
church or congregation served by the cleric. 325

(13) The other person is a minor, the offender is a peace 326
officer, and the offender is more than two years older than the 327
other person. 328

(B) Whoever violates this section is guilty of sexual 329
battery. Except as otherwise provided in this division, sexual 330
battery is a felony of the third degree. If the other person is 331
less than thirteen years of age, sexual battery is a felony of 332
the second degree, and the court shall impose upon the offender 333
a mandatory prison term equal to one of the definite prison 334
terms prescribed in division (A) (2) (b) of section 2929.14 of the 335
Revised Code for a felony of the second degree, except that if 336
the violation is committed on or after ~~the effective date of~~ 337
~~this amendment~~ March 22, 2019, the court shall impose as the 338
minimum prison term for the offense a mandatory prison term that 339
is one of the minimum terms prescribed in division (A) (2) (a) of 340

that section for a felony of the second degree. 341

(C) As used in this section: 342

(1) "Cleric" has the same meaning as in section 2317.02 of 343
the Revised Code. 344

(2) "Detention facility" has the same meaning as in 345
section 2921.01 of the Revised Code. 346

(3) "Institution of higher education" means a state 347
institution of higher education defined in section 3345.011 of 348
the Revised Code, a private nonprofit college or university 349
located in this state that possesses a certificate of 350
authorization issued by the Ohio board of regents pursuant to 351
Chapter 1713. of the Revised Code, or a school certified under 352
Chapter 3332. of the Revised Code. 353

(4) "Peace officer" has the same meaning as in section 354
2935.01 of the Revised Code. 355

Sec. 2907.04. (A) No person who is eighteen years of age 356
or older shall engage in sexual conduct with another, ~~who is not~~ 357
~~the spouse of the offender,~~ when the offender knows the other 358
person is thirteen years of age or older but less than sixteen 359
years of age, or the offender is reckless in that regard. 360

(B) Whoever violates this section is guilty of unlawful 361
sexual conduct with a minor. 362

(1) Except as otherwise provided in divisions (B) (2), (3), 363
and (4) of this section, unlawful sexual conduct with a minor is 364
a felony of the fourth degree. 365

(2) Except as otherwise provided in division (B) (4) of 366
this section, if the offender is less than four years older than 367
the other person, unlawful sexual conduct with a minor is a 368

misdemeanor of the first degree. 369

(3) Except as otherwise provided in division (B) (4) of 370
this section, if the offender is ten or more years older than 371
the other person, unlawful sexual conduct with a minor is a 372
felony of the third degree. 373

(4) If the offender previously has been convicted of or 374
pleaded guilty to a violation of section 2907.02, 2907.03, or 375
2907.04 of the Revised Code or a violation of former section 376
2907.12 of the Revised Code, unlawful sexual conduct with a 377
minor is a felony of the second degree. 378

Sec. 2907.05. (A) No person shall have sexual contact with 379
another, ~~not the spouse of the offender;~~ cause another, ~~not the~~ 380
~~spouse of the offender,~~ to have sexual contact with the 381
offender; or cause two or more other persons to have sexual 382
contact when any of the following applies: 383

(1) The offender purposely compels the other person, or 384
one of the other persons, to submit by force or threat of force. 385

(2) For the purpose of preventing resistance, the offender 386
substantially impairs the judgment or control of the other 387
person or of one of the other persons by administering any drug, 388
intoxicant, or controlled substance to the other person 389
surreptitiously or by force, threat of force, or deception. 390

(3) The offender knows that the judgment or control of the 391
other person or of one of the other persons is substantially 392
impaired as a result of the influence of any drug or intoxicant 393
administered to the other person with the other person's consent 394
for the purpose of any kind of medical or dental examination, 395
treatment, or surgery. 396

(4) The other person, or one of the other persons, is less 397

than thirteen years of age, whether or not the offender knows 398
the age of that person. 399

(5) The ability of the other person to resist or consent 400
or the ability of one of the other persons to resist or consent 401
is substantially impaired because of a mental or physical 402
condition or because of advanced age, and the offender knows or 403
has reasonable cause to believe that the ability to resist or 404
consent of the other person or of one of the other persons is 405
substantially impaired because of a mental or physical condition 406
or because of advanced age. 407

(B) No person shall knowingly touch the genitalia of 408
another, when the touching is not through clothing, the other 409
person is less than twelve years of age, whether or not the 410
offender knows the age of that person, and the touching is done 411
with an intent to abuse, humiliate, harass, degrade, or arouse 412
or gratify the sexual desire of any person. 413

(C) Whoever violates this section is guilty of gross 414
sexual imposition. 415

(1) Except as otherwise provided in this section, gross 416
sexual imposition committed in violation of division (A) (1), 417
(2), (3), or (5) of this section is a felony of the fourth 418
degree. If the offender under division (A) (2) of this section 419
substantially impairs the judgment or control of the other 420
person or one of the other persons by administering any 421
controlled substance described in section 3719.41 of the Revised 422
Code to the person surreptitiously or by force, threat of force, 423
or deception, gross sexual imposition committed in violation of 424
division (A) (2) of this section is a felony of the third degree. 425

(2) Gross sexual imposition committed in violation of 426

division (A) (4) or (B) of this section is a felony of the third 427
degree. Except as otherwise provided in this division, for gross 428
sexual imposition committed in violation of division (A) (4) or 429
(B) of this section there is a presumption that a prison term 430
shall be imposed for the offense. The court shall impose on an 431
offender convicted of gross sexual imposition in violation of 432
division (A) (4) or (B) of this section a mandatory prison term, 433
as described in division (C) (3) of this section, for a felony of 434
the third degree if either of the following applies: 435

(a) Evidence other than the testimony of the victim was 436
admitted in the case corroborating the violation; 437

(b) The offender previously was convicted of or pleaded 438
guilty to a violation of this section, rape, the former offense 439
of felonious sexual penetration, or sexual battery, and the 440
victim of the previous offense was less than thirteen years of 441
age. 442

(3) A mandatory prison term required under division (C) (2) 443
of this section shall be a definite term from the range of 444
prison terms provided in division (A) (3) (a) of section 2929.14 445
of the Revised Code for a felony of the third degree. 446

(D) A victim need not prove physical resistance to the 447
offender in prosecutions under this section. 448

(E) Evidence of specific instances of the victim's sexual 449
activity, opinion evidence of the victim's sexual activity, and 450
reputation evidence of the victim's sexual activity shall not be 451
admitted under this section unless it involves evidence of the 452
origin of semen, pregnancy, or disease, or the victim's past 453
sexual activity with the offender, and only to the extent that 454
the court finds that the evidence is material to a fact at issue 455

in the case and that its inflammatory or prejudicial nature does 456
not outweigh its probative value. 457

Evidence of specific instances of the defendant's sexual 458
activity, opinion evidence of the defendant's sexual activity, 459
and reputation evidence of the defendant's sexual activity shall 460
not be admitted under this section unless it involves evidence 461
of the origin of semen, pregnancy, or disease, the defendant's 462
past sexual activity with the victim, or is admissible against 463
the defendant under section 2945.59 of the Revised Code, and 464
only to the extent that the court finds that the evidence is 465
material to a fact at issue in the case and that its 466
inflammatory or prejudicial nature does not outweigh its 467
probative value. 468

(F) Prior to taking testimony or receiving evidence of any 469
sexual activity of the victim or the defendant in a proceeding 470
under this section, the court shall resolve the admissibility of 471
the proposed evidence in a hearing in chambers, which shall be 472
held at or before preliminary hearing and not less than three 473
days before trial, or for good cause shown during the trial. 474

(G) Upon approval by the court, the victim may be 475
represented by counsel in any hearing in chambers or other 476
proceeding to resolve the admissibility of evidence. If the 477
victim is indigent or otherwise is unable to obtain the services 478
of counsel, the court, upon request, may appoint counsel to 479
represent the victim without cost to the victim. 480

Sec. 2907.06. (A) No person shall have sexual contact with 481
another, ~~not the spouse of the offender;~~ cause another, ~~not the~~ 482
~~spouse of the offender,~~ to have sexual contact with the 483
offender; or cause two or more other persons to have sexual 484
contact when any of the following applies: 485

(1) The offender knows that the sexual contact is 486
offensive to the other person, or one of the other persons, or 487
is reckless in that regard. 488

(2) The offender knows that the other person's, or one of 489
the other person's, ability to appraise the nature of or control 490
the offender's or touching person's conduct is substantially 491
impaired. 492

(3) The offender knows that the other person, or one of 493
the other persons, submits because of being unaware of the 494
sexual contact. 495

(4) The other person, or one of the other persons, is 496
thirteen years of age or older but less than sixteen years of 497
age, whether or not the offender knows the age of such person, 498
and the offender is at least eighteen years of age and four or 499
more years older than such other person. 500

(5) The offender is a mental health professional, the 501
other person or one of the other persons is a mental health 502
client or patient of the offender, and the offender induces the 503
other person who is the client or patient to submit by falsely 504
representing to the other person who is the client or patient 505
that the sexual contact is necessary for mental health treatment 506
purposes. 507

(B) No person shall be convicted of a violation of this 508
section solely upon the victim's testimony unsupported by other 509
evidence. 510

(C) Whoever violates this section is guilty of sexual 511
imposition, a misdemeanor of the third degree. If the offender 512
previously has been convicted of or pleaded guilty to a 513
violation of this section or of section 2907.02, 2907.03, 514

2907.04, or 2907.05, or former section 2907.12 of the Revised Code, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section or section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 2907.12 of the Revised Code, or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in section 2929.24 of the Revised Code, the court may impose on the offender a definite jail term of not more than one year.

Sec. 2907.07. (A) No person shall solicit a person who is less than thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person.

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

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

(C) No person shall solicit another by means of a

telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:

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

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

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

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

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

(E) Divisions (C) and (D) of this section apply to any 574
solicitation that is contained in a transmission via a 575
telecommunications device that either originates in this state 576
or is received in this state. 577

(F) (1) Whoever violates this section is guilty of 578
importuning. 579

(2) Except as otherwise provided in this division, a 580
violation of division (A) or (C) of this section is a felony of 581
the third degree on a first offense, and, notwithstanding 582
division (C) of section 2929.13 of the Revised Code, there is a 583
presumption that a prison term shall be imposed as described in 584
division (D) of section 2929.13 of the Revised Code. If the 585
offender previously has been convicted of a sexually oriented 586
offense or a child-victim oriented offense, a violation of 587
division (A) or (C) of this section is a felony of the second 588
degree, and the court shall impose upon the offender as a 589
mandatory prison term one of the definite prison terms 590
prescribed in division (A) (2) (b) of section 2929.14 of the 591
Revised Code for a felony of the second degree, except that if 592
the violation is committed on or after ~~the effective date of~~ 593
~~this amendment~~ March 22, 2019, the court shall impose as the 594
minimum prison term for the offense a mandatory prison term that 595
is one of the minimum terms prescribed in division (A) (2) (a) of 596
that section for a felony of the second degree. 597

(3) A violation of division (B) or (D) of this section is 598
a felony of the fifth degree on a first offense, and, 599
notwithstanding division (B) of section 2929.13 of the Revised 600
Code, there is a presumption that a prison term shall be imposed 601
as described in division (D) of section 2929.13 of the Revised 602
Code. If the offender previously has been convicted of a 603

sexually oriented offense or a child-victim oriented offense, a 604
violation of division (B) or (D) of this section is a felony of 605
the fourth degree, and the court shall impose upon the offender 606
as a mandatory prison term one of the prison terms prescribed in 607
section 2929.14 of the Revised Code for a felony of the fourth 608
degree that is not less than twelve months in duration. 609

Sec. 2933.82. (A) As used in this section: 610

(1) (a) "Biological evidence" means any of the following: 611

(i) The contents of a sexual assault examination kit; 612

(ii) Any item that contains blood, semen, hair, saliva, 613
skin tissue, fingernail scrapings, bone, bodily fluids, or any 614
other identifiable biological material that was collected as 615
part of a criminal investigation or delinquent child 616
investigation and that reasonably may be used to incriminate or 617
exculpate any person for an offense or delinquent act. 618

(b) The definition of "biological evidence" set forth in 619
division (A) (1) (a) of this section applies whether the material 620
in question is cataloged separately, such as on a slide or swab 621
or in a test tube, or is present on other evidence, including, 622
but not limited to, clothing, ligatures, bedding or other 623
household material, drinking cups or containers, or cigarettes. 624

(2) "Biological material" has the same meaning as in 625
section 2953.71 of the Revised Code. 626

(3) "DNA," "DNA analysis," "DNA database," "DNA record," 627
and "DNA specimen" have the same meanings as in section 109.573 628
of the Revised Code. 629

(4) "Prosecutor" has the same meaning as in section 630
2935.01 of the Revised Code. 631

(5) "Governmental evidence-retention entity" means all of 632
the following: 633

(a) Any law enforcement agency, prosecutor's office, 634
court, public hospital, crime laboratory, or other governmental 635
or public entity or individual within this state that is charged 636
with the collection, storage, or retrieval of biological 637
evidence; 638

(b) Any official or employee of any entity or individual 639
described in division (A) (5) (a) of this section. 640

(B) (1) Each governmental evidence-retention entity that 641
secures any biological evidence in relation to an investigation 642
or prosecution of a criminal offense or delinquent act that is a 643
violation of section 2903.01, 2903.02, or 2903.03, a violation 644
of section 2903.04 or 2903.06 that is a felony of the first or 645
second degree, a violation of section 2907.02 or 2907.03 or 646
division (A) (4) or (B) of section 2907.05 of the Revised Code, 647
or an attempt to commit a violation of section 2907.02 of the 648
Revised Code shall secure the biological evidence for whichever 649
of the following periods of time is applicable: 650

(a) For a violation of section 2903.01 ~~or~~, 2903.02, or 651
2907.02 of the Revised Code, or an attempt to commit a violation 652
of section 2907.02 of the Revised Code, for the period of time 653
that the offense or act remains unsolved; 654

(b) For a violation of section 2903.03, a violation of 655
section 2903.04 or 2903.06 that is a felony of the first or 656
second degree, a violation of section ~~2907.02 or 2907.03 or of~~ 657
division (A) (4) or (B) of section 2907.05 of the Revised Code, 658
~~or an attempt to commit a violation of section 2907.02 of the~~ 659
~~Revised Code,~~ for a period of thirty years if the offense or act 660

remains unsolved; 661

(c) If any person is convicted of or pleads guilty to the 662
offense, or is adjudicated a delinquent child for committing the 663
delinquent act, for the earlier of the following: (i) the 664
expiration of the latest of the following periods of time that 665
apply to the person: the period of time that the person is 666
incarcerated, is in a department of youth services institution 667
or other juvenile facility, is under a community control 668
sanction for that offense, is under any order of disposition for 669
that act, is on probation or parole for that offense, is under 670
judicial release or supervised release for that act, is under 671
post-release control for that offense, is involved in civil 672
litigation in connection with that offense or act, or is subject 673
to registration and other duties imposed for that offense or act 674
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 675
Revised Code or (ii) thirty years. If after the period of thirty 676
years the person remains incarcerated, then the governmental 677
evidence-retention entity shall secure the biological evidence 678
until the person is released from incarceration or dies. 679

(2) (a) A law enforcement agency shall review all of its 680
records and reports pertaining to its investigation of any 681
offense specified in division (B) (1) of this section as soon as 682
possible after March 23, 2015. If the law enforcement agency's 683
review determines that one or more persons may have committed or 684
participated in an offense specified in division (B) (1) of this 685
section or another offense committed during the course of an 686
offense specified in division (B) (1) of this section and the 687
agency is in possession of a sexual assault examination kit 688
secured during the course of the agency's investigation, as soon 689
as possible, but not later than one year after March 23, 2015, 690
the agency shall forward the contents of the kit to the bureau 691

of criminal identification and investigation or another crime 692
laboratory for a DNA analysis of the contents of the kit if a 693
DNA analysis has not previously been performed on the contents 694
of the kit. The law enforcement agency shall consider the period 695
of time remaining under section 2901.13 of the Revised Code for 696
commencing the prosecution of a criminal offense related to the 697
DNA specimens from the kit as well as other relevant factors in 698
prioritizing the forwarding of the contents of sexual assault 699
examination kits. 700

(b) If an investigation is initiated on or after March 23, 701
2015, and if a law enforcement agency investigating an offense 702
specified in division (B) (1) of this section determines that one 703
or more persons may have committed or participated in an offense 704
specified in division (B) (1) of this section or another offense 705
committed during the course of an offense specified in division 706
(B) (1) of this section, the law enforcement agency shall forward 707
the contents of a sexual assault examination kit in the agency's 708
possession to the bureau or another crime laboratory within 709
thirty days for a DNA analysis of the contents of the kit. 710

(c) A law enforcement agency shall be considered in the 711
possession of a sexual assault examination kit that is not in 712
the law enforcement agency's possession for purposes of 713
divisions (B) (2) (a) and (b) of this section if the sexual 714
assault examination kit contains biological evidence related to 715
the law enforcement agency's investigation of an offense 716
specified in division (B) (1) of this section and is in the 717
possession of another government evidence-retention entity. The 718
law enforcement agency shall be responsible for retrieving the 719
sexual assault examination kit from the government evidence- 720
retention entity and forwarding the contents of the kit to the 721
bureau or another crime laboratory as required under divisions 722

(B) (2) (a) and (b) of this section. 723

(d) (i) The bureau or a laboratory under contract with the 724
bureau pursuant to division (B) (5) of section 109.573 of the 725
Revised Code shall perform a DNA analysis of the contents of any 726
sexual assault examination kit forwarded to the bureau pursuant 727
to division (B) (2) (a) or (b) of this section as soon as possible 728
after the bureau receives the contents of the kit. The bureau 729
shall enter the resulting DNA record into a DNA database. If the 730
DNA analysis is performed by a laboratory under contract with 731
the bureau, the laboratory shall forward the biological evidence 732
to the bureau immediately after the laboratory performs the DNA 733
analysis. A crime laboratory shall perform a DNA analysis of the 734
contents of any sexual assault examination kit forwarded to the 735
crime laboratory pursuant to division (B) (2) (a) or (b) of this 736
section as soon as possible after the crime laboratory receives 737
the contents of the kit and shall enter the resulting DNA record 738
into a DNA database subject to the applicable DNA index system 739
standards. 740

(ii) Upon the completion of the DNA analysis by the bureau 741
or a crime laboratory under contract with the bureau under this 742
division, the bureau shall return the contents of the sexual 743
assault examination kit to the law enforcement agency. The law 744
enforcement agency shall secure the contents of the sexual 745
assault examination kit in accordance with division (B) (1) of 746
this section, as applicable. 747

(e) The failure of any law enforcement agency to comply 748
with any time limit specified in this section shall not create, 749
and shall not be construed as creating, any basis or right to 750
appeal, claim for or right to postconviction relief, or claim 751
for or right to a new trial or any other claim or right to 752

relief by any person. 753

(3) This section applies to evidence likely to contain 754
biological material that was in the possession of any 755
governmental evidence-retention entity during the investigation 756
and prosecution of a criminal case or delinquent child case 757
involving a violation of section 2903.01, 2903.02, or 2903.03, a 758
violation of section 2903.04 or 2903.06 that is a felony of the 759
first or second degree, a violation of section 2907.02 or 760
2907.03 or of division (A) (4) or (B) of section 2907.05 of the 761
Revised Code, or an attempt to commit a violation of section 762
2907.02 of the Revised Code. 763

(4) A governmental evidence-retention entity that 764
possesses biological evidence shall retain the biological 765
evidence in the amount and manner sufficient to develop a DNA 766
record from the biological material contained in or included on 767
the evidence. 768

(5) Upon written request by the defendant in a criminal 769
case or the alleged delinquent child in a delinquent child case 770
involving a violation of section 2903.01, 2903.02, or 2903.03, a 771
violation of section 2903.04 or 2903.06 that is a felony of the 772
first or second degree, a violation of section 2907.02 or 773
2907.03 or of division (A) (4) or (B) of section 2907.05 of the 774
Revised Code, or an attempt to commit a violation of section 775
2907.02 of the Revised Code, a governmental evidence-retention 776
entity that possesses biological evidence shall prepare an 777
inventory of the biological evidence that has been preserved in 778
connection with the defendant's criminal case or the alleged 779
delinquent child's delinquent child case. 780

(6) Except as otherwise provided in division (B) (8) of 781
this section, a governmental evidence-retention entity that 782

possesses biological evidence that includes biological material 783
may destroy the evidence before the expiration of the applicable 784
period of time specified in division (B) (1) of this section if 785
all of the following apply: 786

(a) No other provision of federal or state law requires 787
the state to preserve the evidence. 788

(b) The governmental evidence-retention entity, by 789
certified mail, return receipt requested, provides notice of 790
intent to destroy the evidence to all of the following: 791

(i) All persons who remain in custody, incarcerated, in a 792
department of youth services institution or other juvenile 793
facility, under a community control sanction, under any order of 794
disposition, on probation or parole, under judicial release or 795
supervised release, under post-release control, involved in 796
civil litigation, or subject to registration and other duties 797
imposed for that offense or act under sections 2950.04, 798
2950.041, 2950.05, and 2950.06 of the Revised Code as a result 799
of a criminal conviction, delinquency adjudication, or 800
commitment related to the evidence in question; 801

(ii) The attorney of record for each person who is in 802
custody in any circumstance described in division (B) (6) (b) (i) 803
of this section if the attorney of record can be located; 804

(iii) The state public defender; 805

(iv) The office of the prosecutor of record in the case 806
that resulted in the custody of the person in custody in any 807
circumstance described in division (B) (6) (b) (i) of this section; 808

(v) The attorney general. 809

(c) No person who is notified under division (B) (6) (b) of 810

this section does either of the following within one year after 811
the date on which the person receives the notice: 812

(i) Files a motion for testing of evidence under sections 813
2953.71 to 2953.81 or section 2953.82 of the Revised Code; 814

(ii) Submits a written request for retention of evidence 815
to the governmental evidence-retention entity that provided 816
notice of its intent to destroy evidence under division (B) (6) 817
(b) of this section. 818

(7) Except as otherwise provided in division (B) (8) of 819
this section, if, after providing notice under division (B) (6) 820
(b) of this section of its intent to destroy evidence, a 821
governmental evidence-retention entity receives a written 822
request for retention of the evidence from any person to whom 823
the notice is provided, the governmental evidence-retention 824
entity shall retain the evidence while the person referred to in 825
division (B) (6) (b) (i) of this section remains in custody, 826
incarcerated, in a department of youth services institution or 827
other juvenile facility, under a community control sanction, 828
under any order of disposition, on probation or parole, under 829
judicial release or supervised release, under post-release 830
control, involved in civil litigation, or subject to 831
registration and other duties imposed for that offense or act 832
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 833
Revised Code as a result of a criminal conviction, delinquency 834
adjudication, or commitment related to the evidence in question. 835

(8) A governmental evidence-retention entity that 836
possesses biological evidence that includes biological material 837
may destroy the evidence five years after a person pleads guilty 838
or no contest to a violation of section 2903.01, 2903.02, or 839
2903.03, a violation of section 2903.04 or 2903.06 that is a 840

felony of the first or second degree, a violation of section 841
2907.02, 2907.03, division (A) (4) or (B) of section 2907.05, or 842
an attempt to commit a violation of section 2907.02 of the 843
Revised Code and all appeals have been exhausted unless, upon a 844
motion to the court by the person who pleaded guilty or no 845
contest or the person's attorney and notice to those persons 846
described in division (B) (6) (b) of this section requesting that 847
the evidence not be destroyed, the court finds good cause as to 848
why that evidence must be retained. 849

(9) A governmental evidence-retention entity shall not be 850
required to preserve physical evidence pursuant to this section 851
that is of such a size, bulk, or physical character as to render 852
retention impracticable. When retention of physical evidence 853
that otherwise would be required to be retained pursuant to this 854
section is impracticable as described in this division, the 855
governmental evidence-retention entity that otherwise would be 856
required to retain the physical evidence shall remove and 857
preserve portions of the material evidence likely to contain 858
biological evidence related to the offense, in a quantity 859
sufficient to permit future DNA testing before returning or 860
disposing of that physical evidence. 861

(C) The office of the attorney general shall administer 862
and conduct training programs for law enforcement officers and 863
other relevant employees who are charged with preserving and 864
cataloging biological evidence regarding the methods and 865
procedures referenced in this section. 866

Sec. 2945.42. No person is disqualified as a witness in a 867
criminal prosecution by reason of the person's interest in the 868
prosecution as a party or otherwise or by reason of the person's 869
conviction of crime. Husband and wife are competent witnesses to 870

testify in behalf of each other in all criminal prosecutions and 871
to testify against each other in all actions, prosecutions, and 872
proceedings for personal injury of either by the other, bigamy, 873
or failure to provide for, neglect of, or cruelty to their 874
children under eighteen years of age or their physically or 875
mentally handicapped child under twenty-one years of age. A 876
spouse may testify against his or her spouse in a prosecution 877
under a provision of sections 2903.11 to 2903.13, 2919.21, 878
2919.22, or 2919.25 of the Revised Code for cruelty to, neglect 879
of, or abandonment of such spouse, in a prosecution against his 880
or her spouse under section 2903.211 or 2911.211, of the Revised 881
Code for the commission of the offense against the spouse who is 882
testifying, in a prosecution under section 2919.27 of the 883
Revised Code involving a protection order issued or consent 884
agreement approved pursuant to section 2919.26 or 3113.31 of the 885
Revised Code for the commission of the offense against the 886
spouse who is testifying, or in a prosecution under section 887
2907.02 of the Revised Code for the commission of rape, under 888
section 2907.03 of the Revised Code for the commission of sexual 889
battery, under section 2907.04 of the Revised Code for the 890
commission of unlawful sexual conduct with a minor, under 891
section 2907.05 for the commission of gross sexual imposition, 892
under section 2907.06 for the commission of sexual imposition, 893
under division (B) (2) of section 2907.07 for the commission of 894
importuning, or under former section 2907.12 of the Revised Code 895
for felonious sexual penetration against such spouse in a case 896
in which the offense can be committed against a spouse. Such 897
interest, conviction, or relationship may be shown for the 898
purpose of affecting the credibility of the witness. Husband or 899
wife shall not testify concerning a communication made by one to 900
the other, or act done by either in the presence of the other, 901
during coverture, unless the communication was made or act done 902

in the known presence or hearing of a third person competent to 903
be a witness, or in case of personal injury by either the 904
husband or wife to the other, or rape or the former offense of 905
felonious sexual penetration in a case in which the offense can 906
be committed against a spouse, or sexual battery, unlawful 907
sexual conduct with a minor, gross sexual imposition, sexual 908
imposition, importuning, public indecency, or bigamy, or failure 909
to provide for, or neglect or cruelty of either to their 910
children under eighteen years of age or their physically or 911
mentally handicapped child under twenty-one years of age, 912
violation of a protection order or consent agreement, or neglect 913
or abandonment of a spouse under a provision of those sections. 914
The presence or whereabouts of the husband or wife is not an act 915
under this section. The rule is the same if the marital relation 916
has ceased to exist. 917

Section 2. That existing sections 2901.13, 2907.02, 918
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2933.82, and 919
2945.42 of the Revised Code are hereby repealed. 920

Section 3. That the versions of sections 2907.02 and 921
2907.05 of the Revised Code that are scheduled to take effect 922
March 22, 2020, be amended to read as follows: 923

Sec. 2907.02. (A) (1) No person shall engage in sexual 924
conduct with another ~~who is not the spouse of the offender or~~ 925
~~who is the spouse of the offender but is living separate and~~ 926
~~apart from the offender,~~ when any of the following applies: 927

(a) For the purpose of preventing resistance, the offender 928
substantially impairs the other person's judgment or control by 929
administering any drug, intoxicant, or controlled substance to 930
the other person surreptitiously or by force, threat of force, 931
or deception. 932

(b) The other person is less than thirteen years of age, 933
whether or not the offender knows the age of the other person. 934

(c) The other person's ability to resist or consent is 935
substantially impaired because of a mental or physical condition 936
or because of advanced age, and the offender knows or has 937
reasonable cause to believe that the other person's ability to 938
resist or consent is substantially impaired because of a mental 939
or physical condition or because of advanced age. 940

(2) No person shall engage in sexual conduct with another 941
when the offender purposely compels the other person to submit 942
by force or threat of force. 943

(B) Whoever violates this section is guilty of rape, a 944
felony of the first degree. If the offender under division (A) 945
(1) (a) of this section substantially impairs the other person's 946
judgment or control by administering any controlled substance, 947
as defined in section 3719.01 of the Revised Code, to the other 948
person surreptitiously or by force, threat of force, or 949
deception, the prison term imposed upon the offender shall be 950
one of the definite prison terms prescribed for a felony of the 951
first degree in division (A) (1) (b) of section 2929.14 of the 952
Revised Code that is not less than five years, except that if 953
the violation is committed on or after ~~the effective date of~~ 954
~~this amendment~~ March 22, 2019, the court shall impose as the 955
minimum prison term for the offense a mandatory prison term that 956
is one of the minimum terms prescribed for a felony of the first 957
degree in division (A) (1) (a) of section 2929.14 of the Revised 958
Code that is not less than five years. Except as otherwise 959
provided in this division, notwithstanding sections 2929.11 to 960
2929.14 of the Revised Code, an offender under division (A) (1) 961
(b) of this section shall be sentenced to a prison term or term 962

of life imprisonment pursuant to section 2971.03 of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division. If an offender under division (A) (1) (b) of this section previously has been convicted of or pleaded guilty to violating division (A) (1) (b) of this section or to violating an existing or former law of this state, another state, or the United States that is substantially similar to division (A) (1) (b) of this section, if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, or if the victim under division (A) (1) (b) of this section is less than ten years of age, in lieu of sentencing the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, the court may impose upon the offender a term of life without parole. If the court imposes a term of life without parole pursuant to this division, division (F) of section 2971.03 of the Revised Code applies, and the offender automatically is classified a tier III sex offender/child-victim offender, as described in that division.

(C) A victim need not prove physical resistance to the 995
offender in prosecutions under this section. 996

(D) Evidence of specific instances of the victim's sexual 997
activity, opinion evidence of the victim's sexual activity, and 998
reputation evidence of the victim's sexual activity shall not be 999
admitted under this section unless it involves evidence of the 1000
origin of semen, pregnancy, or disease, or the victim's past 1001
sexual activity with the offender, and only to the extent that 1002
the court finds that the evidence is material to a fact at issue 1003
in the case and that its inflammatory or prejudicial nature does 1004
not outweigh its probative value. 1005

Evidence of specific instances of the defendant's sexual 1006
activity, opinion evidence of the defendant's sexual activity, 1007
and reputation evidence of the defendant's sexual activity shall 1008
not be admitted under this section unless it involves evidence 1009
of the origin of semen, pregnancy, or disease, the defendant's 1010
past sexual activity with the victim, or is admissible against 1011
the defendant under section 2945.59 of the Revised Code, and 1012
only to the extent that the court finds that the evidence is 1013
material to a fact at issue in the case and that its 1014
inflammatory or prejudicial nature does not outweigh its 1015
probative value. 1016

(E) Prior to taking testimony or receiving evidence of any 1017
sexual activity of the victim or the defendant in a proceeding 1018
under this section, the court shall resolve the admissibility of 1019
the proposed evidence in a hearing in chambers, which shall be 1020
held at or before preliminary hearing and not less than three 1021
days before trial, or for good cause shown during the trial. 1022

(F) Upon approval by the court, the victim may be 1023
represented by counsel in any hearing in chambers or other 1024

proceeding to resolve the admissibility of evidence. If the 1025
victim is indigent or otherwise is unable to obtain the services 1026
of counsel, the court, upon request, may appoint counsel to 1027
represent the victim without cost to the victim. 1028

(G) It is not a defense to a charge under division (A) (2) 1029
of this section that the offender and the victim were married or 1030
were cohabiting at the time of the commission of the offense. 1031

Sec. 2907.05. (A) No person shall have sexual contact with 1032
another, ~~not the spouse of the offender;~~ cause another, ~~not the~~ 1033
~~spouse of the offender,~~ to have sexual contact with the 1034
offender; or cause two or more other persons to have sexual 1035
contact when any of the following applies: 1036

(1) The offender purposely compels the other person, or 1037
one of the other persons, to submit by force or threat of force. 1038

(2) For the purpose of preventing resistance, the offender 1039
substantially impairs the judgment or control of the other 1040
person or of one of the other persons by administering any drug, 1041
intoxicant, or controlled substance to the other person 1042
surreptitiously or by force, threat of force, or deception. 1043

(3) The offender knows that the judgment or control of the 1044
other person or of one of the other persons is substantially 1045
impaired as a result of the influence of any drug or intoxicant 1046
administered to the other person with the other person's consent 1047
for the purpose of any kind of medical or dental examination, 1048
treatment, or surgery. 1049

(4) The other person, or one of the other persons, is less 1050
than thirteen years of age, whether or not the offender knows 1051
the age of that person. 1052

(5) The ability of the other person to resist or consent 1053

or the ability of one of the other persons to resist or consent 1054
is substantially impaired because of a mental or physical 1055
condition or because of advanced age, and the offender knows or 1056
has reasonable cause to believe that the ability to resist or 1057
consent of the other person or of one of the other persons is 1058
substantially impaired because of a mental or physical condition 1059
or because of advanced age. 1060

(B) No person shall knowingly touch the genitalia of 1061
another, when the touching is not through clothing, the other 1062
person is less than twelve years of age, whether or not the 1063
offender knows the age of that person, and the touching is done 1064
with an intent to abuse, humiliate, harass, degrade, or arouse 1065
or gratify the sexual desire of any person. 1066

(C) Whoever violates this section is guilty of gross 1067
sexual imposition. 1068

(1) Except as otherwise provided in this section, gross 1069
sexual imposition committed in violation of division (A) (1), 1070
(2), (3), or (5) of this section is a felony of the fourth 1071
degree. If the offender under division (A) (2) of this section 1072
substantially impairs the judgment or control of the other 1073
person or one of the other persons by administering any 1074
controlled substance, as defined in section 3719.01 of the 1075
Revised Code, to the person surreptitiously or by force, threat 1076
of force, or deception, gross sexual imposition committed in 1077
violation of division (A) (2) of this section is a felony of the 1078
third degree. 1079

(2) Gross sexual imposition committed in violation of 1080
division (A) (4) or (B) of this section is a felony of the third 1081
degree. Except as otherwise provided in this division, for gross 1082
sexual imposition committed in violation of division (A) (4) or 1083

(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:

(a) Evidence other than the testimony of the victim was admitted in the case corroborating the violation;

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

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

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

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

Evidence of specific instances of the defendant's sexual

activity, opinion evidence of the defendant's sexual activity, 1113
and reputation evidence of the defendant's sexual activity shall 1114
not be admitted under this section unless it involves evidence 1115
of the origin of semen, pregnancy, or disease, the defendant's 1116
past sexual activity with the victim, or is admissible against 1117
the defendant under section 2945.59 of the Revised Code, and 1118
only to the extent that the court finds that the evidence is 1119
material to a fact at issue in the case and that its 1120
inflammatory or prejudicial nature does not outweigh its 1121
probative value. 1122

(F) Prior to taking testimony or receiving evidence of any 1123
sexual activity of the victim or the defendant in a proceeding 1124
under this section, the court shall resolve the admissibility of 1125
the proposed evidence in a hearing in chambers, which shall be 1126
held at or before preliminary hearing and not less than three 1127
days before trial, or for good cause shown during the trial. 1128

(G) Upon approval by the court, the victim may be 1129
represented by counsel in any hearing in chambers or other 1130
proceeding to resolve the admissibility of evidence. If the 1131
victim is indigent or otherwise is unable to obtain the services 1132
of counsel, the court, upon request, may appoint counsel to 1133
represent the victim without cost to the victim. 1134

Section 4. That the existing versions of sections 2907.02 1135
and 2907.05 of the Revised Code that are scheduled to take 1136
effect March 22, 2020, are hereby repealed. 1137

Section 5. Sections 3 and 4 of this act shall take effect 1138
March 22, 2020. 1139

Section 6. Section 2305.117 of the Revised Code, as 1140
enacted by this act, applies to a cause of action that accrues 1141

on or after the effective date of this act. 1142

Section 7. Section 2901.13 of the Revised Code, as amended 1143
by this act, applies to an offense committed on and after the 1144
effective date of this act and applies to an offense committed 1145
prior to the effective date of this act if prosecution for that 1146
offense was not barred under section 2901.13 of the Revised Code 1147
as it existed on the day prior to the effective date of this 1148
act. 1149

Section 8. Sections 2907.02 and 2907.05 of the Revised 1150
Code are presented in Section 3 of this act as composites of the 1151
sections as amended by both Am. Sub. S.B. 201 and Sub. S.B. 229 1152
of the 132nd General Assembly. The General Assembly, applying 1153
the principle stated in division (B) of section 1.52 of the 1154
Revised Code that amendments are to be harmonized if reasonably 1155
capable of simultaneous operation, finds that the composites are 1156
the resulting versions of the sections in effect prior to the 1157
effective date of the sections as presented in this act. 1158