



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

H.B. 234

131st General Assembly
(As Introduced)

Reps. G. Johnson and Fedor, Antonio, Bishoff, Celebrezze, Clyde, Driehaus, Gerberry, Leland, Lepore-Hagan, S. O'Brien, Phillips, Ramos, Rogers, Stinziano, Sweeney, Sykes

BILL SUMMARY

- Eliminates the 20-year period of limitation for prosecution of rape or sexual battery or complicity in committing rape or sexual battery.
- Retains the 20-year period of limitation for prosecution of conspiracy or attempt to commit rape or sexual battery.
- Eliminates exceptions to the offenses of rape or sexual battery that currently apply if the victim is the spouse of the offender.
- Expands the proceedings in which a person may testify against the person's spouse to include prosecutions for sexual battery.

CONTENT AND OPERATION

Elimination of period of limitation for rape or sexual battery

The bill eliminates the current 20-year period of limitation for a prosecution of rape or sexual battery or complicity in committing rape or sexual battery.¹ The bill retains the existing 20-year period of limitation for prosecution of a conspiracy or an attempt to commit rape or sexual battery.² Under existing law, except for aggravated murder and murder, a criminal prosecution generally is barred unless it is commenced within a specified period after an offense is committed (six months, two years, six years,

¹ R.C. 2901.13(A)(2).

² R.C. 2901.13(A)(3)(c).

or 20 years, depending on the offense); currently, a prosecution of rape or sexual battery or conspiracy or attempt to commit, or complicity in committing, rape or sexual battery is barred unless it is commenced within 20 years after the offense is committed.³

Elimination of spousal exception for offense of rape

Rape under certain conditions

The bill eliminates a current law exception to the offense of rape that applies if the other person is the spouse of the offender and living with the offender.⁴ Under the bill, a person commits rape when the person engages in sexual conduct with another when any of the following conditions apply:⁵

- 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;
- The other person is less than the age of 13 years of age, whether or not the offender knows the age of the other person; or
- The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of such condition or advanced age.

Under current law, sexual conduct under any of the specified circumstances would not constitute the offense of rape if the other person was the spouse of the offender and living with the offender.

Forcible rape

The second prohibition under the offense of rape, not changed by the bill, prohibits any person from engaging in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.⁶ Continuing law provides that it is not a defense to a charge of rape under this prohibition that the

³ R.C. 2901.13(A)(2) and (3).

⁴ R.C. 2907.02(A)(1).

⁵ R.C. 2907.02(A)(1).

⁶ R.C. 2907.02(A)(2).



offender and the victim were married or were cohabiting at the time of the commission of the offense.⁷

Elimination of spousal exception for offense of sexual battery

The bill eliminates a current law exception to the offense of sexual battery that applies if the other person is the spouse of the offender. Under the bill, a person commits sexual battery if the person engages in sexual conduct with another when any of a list of specified conditions apply.⁸ Continuing law lists the conditions for the offense of sexual battery, some of which could apply under the bill to a sexual battery against an offender's spouse:⁹

- The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution;
- 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; or
- The offender knows that the other person submits because the other person is unaware that the act is being committed.

Other conditions under which sexual battery may occur under existing law pertain to a special relationship between the offender and the other person, such as when the offender is a teacher, coach, mental health professional, cleric, or a person in authority.¹⁰

Spousal testimony in sexual battery prosecution

The bill permits a person to testify against the person's spouse in a prosecution for the offense of sexual battery. It also permits a spouse to testify concerning a communication made by one to the other in a sexual battery case. Existing law permits a person to testify against the person's spouse in a prosecution for personal injury of either by the other or for certain other offenses, including rape. Additionally, a person may testify generally concerning a communication made by one to the other in case of personal injury by either spouse to the other or in certain other cases, including rape.¹¹

⁷ R.C. 2907.02(G).

⁸ R.C. 2907.03(A).

⁹ R.C. 2907.03(A)(1), (2), and (3).

¹⁰ R.C. 2907.03(A).

¹¹ R.C. 2945.42.



HISTORY

ACTION

DATE

Introduced

05-28-15

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