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Am. Sub. H. B. No. 485

REPRESENTATIVES Widowfield, Womer Benjamin, Williams, Roman, Hoops,
Webster, McGregor, Wolpert, Flowers, Lendrum, Salerno, Latta, Trakas,
Young, Metzger, Oلمان, Hagan, Brinkman, Evans, Clancy, Jerse, Carey,
Reinhard, Setzer, Schmidt, Collier, Grendell, Seitz, Buehrer, Hughes,
Callender, Niehaus, Schuring, Gilb, Oakar, Seaver, Otterman, Faber,
Reidelbach, Sulzer, S. Smith, Sykes, Brown, Manning, Carmichael, Aslanides,
Cates, G. Smith, Coates, Sferra, Schaffer, DeWine, Flannery, Cirelli, Barrett,
Distel, Ogg, Redfern, Hartnett, DeBose, Fedor, Perry, Wilson, Rhine,
Stapleton, Schneider, Strahorn, Krupinski, Kearns, Latell, Peterson, Boccieri,
DePiero

A B I L L

To amend sections 2907.02 and 2967.13 of the Revised 1
Code to eliminate the requirement of force or a 2
threat of force for a sentence of life imprisonment 3
for the rape of a child who is less than ten years 4
of age, to provide life imprisonment without parole 5
for repeat offenders who rape children less than 6
thirteen years of age, and to declare an emergency. 7

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

Section 1. That sections 2907.02 and 2967.13 of the Revised 8
Code be amended to read as follows: 9

Sec. 2907.02. (A)(1) No person shall engage in sexual conduct 10
with another who is not the spouse of the offender or who is the 11

spouse of the offender but is living separate and apart from the 12
offender, when any of the following applies: 13

(a) For the purpose of preventing resistance, the offender 14
substantially impairs the other person's judgment or control by 15
administering any drug, intoxicant, or controlled substance to the 16
other person surreptitiously or by force, threat of force, or 17
deception. 18

(b) The other person is less than thirteen years of age, 19
whether or not the offender knows the age of the other person. 20

(c) The other person's ability to resist or consent is 21
substantially impaired because of a mental or physical condition 22
or because of advanced age, and the offender knows or has 23
reasonable cause to believe that the other person's ability to 24
resist or consent is substantially impaired because of a mental or 25
physical condition or because of advanced age. 26

(2) No person shall engage in sexual conduct with another 27
when the offender purposely compels the other person to submit by 28
force or threat of force. 29

(B) Whoever violates this section is guilty of rape, a felony 30
of the first degree. If the offender under division (A)(1)(a) of 31
this section substantially impairs the other person's judgment or 32
control by administering any controlled substance described in 33
section 3719.41 of the Revised Code to the other person 34
surreptitiously or by force, threat of force, or deception, the 35
prison term imposed upon the offender shall be one of the prison 36
terms prescribed for a felony of the first degree in section 37
2929.14 of the Revised Code that is not less than five years. If 38
the offender under division (A)(1)(b) of this section purposely 39
compels the victim to submit by force or threat of force or if the 40
victim under division (A)(1)(b) of this section is less than ten 41
years of age, whoever violates division (A)(1)(b) of this section 42
shall be imprisoned for life. If the offender previously has been 43

convicted of or pleaded guilty to violating division (A)(1)(b) of 44
this section or to violating a law of another state or the United 45
States that is substantially similar to division (A)(1)(b) of this 46
section, whoever violates division (A)(1)(b) of this section shall 47
be imprisoned for life or life without parole. 48

(C) A victim need not prove physical resistance to the 49
offender in prosecutions under this section. 50

(D) Evidence of specific instances of the victim's sexual 51
activity, opinion evidence of the victim's sexual activity, and 52
reputation evidence of the victim's sexual activity shall not be 53
admitted under this section unless it involves evidence of the 54
origin of semen, pregnancy, or disease, or the victim's past 55
sexual activity with the offender, and only to the extent that the 56
court finds that the evidence is material to a fact at issue in 57
the case and that its inflammatory or prejudicial nature does not 58
outweigh its probative value. 59

Evidence of specific instances of the defendant's sexual 60
activity, opinion evidence of the defendant's sexual activity, and 61
reputation evidence of the defendant's sexual activity shall not 62
be admitted under this section unless it involves evidence of the 63
origin of semen, pregnancy, or disease, the defendant's past 64
sexual activity with the victim, or is admissible against the 65
defendant under section 2945.59 of the Revised Code, and only to 66
the extent that the court finds that the evidence is material to a 67
fact at issue in the case and that its inflammatory or prejudicial 68
nature does not outweigh its probative value. 69

(E) Prior to taking testimony or receiving evidence of any 70
sexual activity of the victim or the defendant in a proceeding 71
under this section, the court shall resolve the admissibility of 72
the proposed evidence in a hearing in chambers, which shall be 73
held at or before preliminary hearing and not less than three days 74
before trial, or for good cause shown during the trial. 75

(F) Upon approval by the court, the victim may be represented 76
by counsel in any hearing in chambers or other proceeding to 77
resolve the admissibility of evidence. If the victim is indigent 78
or otherwise is unable to obtain the services of counsel, the 79
court, upon request, may appoint counsel to represent the victim 80
without cost to the victim. 81

(G) It is not a defense to a charge under division (A)(2) of 82
this section that the offender and the victim were married or were 83
cohabiting at the time of the commission of the offense. 84

Sec. 2967.13. (A) Except as provided in division (G) of this 85
section, a prisoner serving a sentence of imprisonment for life 86
for an offense committed on or after July 1, 1996, is not entitled 87
to any earned credit under section 2967.193 of the Revised Code 88
and becomes eligible for parole as follows: 89

(1) If a sentence of imprisonment for life was imposed for 90
the offense of murder, at the expiration of the prisoner's minimum 91
term; 92

(2) If a sentence of imprisonment for life with parole 93
eligibility after serving twenty years of imprisonment was imposed 94
pursuant to section 2929.022 or 2929.03 of the Revised Code, after 95
serving a term of twenty years; 96

(3) If a sentence of imprisonment for life with parole 97
eligibility after serving twenty-five full years of imprisonment 98
was imposed pursuant to section 2929.022 or 2929.03 of the Revised 99
Code, after serving a term of twenty-five full years; 100

(4) If a sentence of imprisonment for life with parole 101
eligibility after serving thirty full years of imprisonment was 102
imposed pursuant to section 2929.022 or 2929.03 of the Revised 103
Code, after serving a term of thirty full years; 104

(5) If a sentence of imprisonment for life was imposed for 105

rape, after serving a term of ten full years' imprisonment;

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(6) If a sentence of imprisonment for life with parole eligibility after serving fifteen years of imprisonment was imposed for a violation of section 2927.24 of the Revised Code, after serving a term of fifteen years.

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(B) Except as provided in division (G) of this section, a prisoner serving a sentence of imprisonment for life with parole eligibility after serving twenty years of imprisonment or a sentence of imprisonment for life with parole eligibility after serving twenty-five full years or thirty full years of imprisonment imposed pursuant to section 2929.022 or 2929.03 of the Revised Code for an offense committed on or after July 1, 1996, consecutively to any other term of imprisonment, becomes eligible for parole after serving twenty years, twenty full years, or thirty full years, as applicable, as to each such sentence of life imprisonment, which shall not be reduced for earned credits under section 2967.193 of the Revised Code, plus the term or terms of the other sentences consecutively imposed or, if one of the other sentences is another type of life sentence with parole eligibility, the number of years before parole eligibility for that sentence.

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(C) Except as provided in division (G) of this section, a prisoner serving consecutively two or more sentences in which an indefinite term of imprisonment is imposed becomes eligible for parole upon the expiration of the aggregate of the minimum terms of the sentences.

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(D) Except as provided in division (G) of this section, a prisoner serving a term of imprisonment who is described in division (A) of section 2967.021 of the Revised Code becomes eligible for parole as described in that division or, if the prisoner is serving a definite term of imprisonment, shall be released as described in that division.

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(E) A prisoner serving a sentence of life imprisonment 138
without parole imposed pursuant to section 2907.02 or section 139
2929.03 or 2929.06 of the Revised Code is not eligible for parole 140
and shall be imprisoned until death. 141

(F) A prisoner serving a stated prison term shall be released 142
in accordance with section 2967.28 of the Revised Code. 143

(G) A prisoner serving a prison term or term of life 144
imprisonment without parole imposed pursuant to section 2971.03 of 145
the Revised Code never becomes eligible for parole during that 146
term of imprisonment. 147

Section 2. That existing sections 2907.02 and 2967.13 of the 148
Revised Code are hereby repealed. 149

Section 3. This act is hereby declared to be an emergency 150
measure necessary for the immediate preservation of the public 151
peace, health, and safety. The reason for such necessity is that 152
this act's elimination of the need to prove force or a threat of 153
force in cases involving the rape of a child under the age of ten 154
is needed at the earliest possible date to prevent sex offenders 155
from preying on the children of Ohio. Therefore, this act shall go 156
into immediate effect. 157