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Legal Update
Assembly Bill 1171

“Spousal Rape” – California Penal Code Section 262

In October of 2021, Assembly Bill 1171 (AB 1171) was enacted which repealed California Penal Code section 262, commonly referred to as “spousal rape.” All other types of rape, as contained in Penal Code sections 261(a)(2)-(7), apply regardless of whether the perpetrator and victim are spouses.

Although Penal Code 261(a)(1) does not apply where the perpetrator and victim are spouses, the section specifically provides that nothing in PC 261(a)(1) precludes the prosecution of a spouse who commits the act from being prosecuted under any other paragraph in PC 261(a), or under any other law.