

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4894

By Delegate Steele

[Introduced January 18, 2024; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating to
 2 spousal privilege; and expanding the exceptions to spousal privilege to exclude therefrom
 3 cases in which the offense at issue was committed against any child rather than a child of
 4 one or both spouses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. COMPETENCY OF WITNESSES.

§57-3-3. Testimony of husband and wife in criminal cases.

1 In criminal cases husband and wife shall be allowed, and, subject to the rules of evidence
 2 governing other witnesses, may be compelled to testify ~~in~~ on behalf of each other, but neither shall
 3 be compelled, nor, without the consent of the other, allowed to be called as a witness against the
 4 other except in the case of a prosecution for an offense committed by one against the other, or
 5 against the child, father, mother, sister or brother of either of them or any child. The failure of either
 6 husband or wife to testify, however, shall create no presumption against the accused, nor be the
 7 subject of any comment before the court or jury by anyone.

NOTE: The purpose of this bill is to expand the exceptions to spousal privilege to exclude therefrom cases in which the offense at issue was committed against any child rather than a child of one or both spouses.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.