

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2220

By Delegate Steele

[Introduced February 12, 2025; 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, grandchild, father, mother, sister or brother of either of them, or any child, or
6 minor, as defined in §2-2-10 of this code, or any person deemed incompetent by mental disease,
7 defect, or other disability. The failure of either husband or wife to testify, however, ~~shall create~~
8 creates no presumption against the accused, nor be the subject of any comment before the court
9 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.