

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 4999

By Delegates Kirby, Steele, Brooks, and C. Pritt

[Originating in the Committee on the Judiciary;

Reported on February 20, 2024]

1 A BILL to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating to
2 expanding the exception to spousal testimonial privilege to include cases of offenses
3 committed against the grandchildren of either spouse.

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 behalf of each other, but neither shall be
3 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 minor, as defined
6 in §2-2-10 of this code, or any person deemed incompetent by mental disease, defect, or other
7 disability. The failure of either husband or wife to testify, however, shall create no presumption
8 against the accused, nor be the subject of any comment before the court or jury by anyone.

NOTE: The purpose of this bill is to expand the exception to spousal testimonial privilege to include cases of offenses committed against the grandchildren of either spouse

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