

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 58**

5 (SENATORS COOKMAN, MILLER, PLYMALE AND FITZSIMMONS, *original sponsors*)

6 \_\_\_\_\_  
7 [Passed March 5, 2014; in effect ninety days from passage.]  
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11 AN ACT to amend and reenact §48-3-103 and §48-3-105 of the Code of  
12 West Virginia, 1931, as amended, all relating to domestic  
13 relations law generally; clarifying that conviction of an  
14 offense punishable by incarceration for one year or more prior  
15 to the marriage and without the knowledge of the other party  
16 constitutes a basis for voiding a marriage; clarifying that a  
17 party to a marriage who was unaware at the time of the  
18 marriage that his or her spouse had previously been convicted  
19 of an offense punishable by incarceration for one year or more  
20 may not institute an annulment action if he or she cohabited  
21 with that spouse after becoming aware of the conviction;  
22 clarifying grounds for voiding marriages; and modifying and  
23 removing certain language related to voiding of marriages.

24 *Be it enacted by the Legislature of West Virginia:*

1           That §48-3-103 and §48-3-105 of the Code of West Virginia,  
2 1931, as amended, be amended and reenacted, all to read as follows:

3 **ARTICLE 3.   PROPERTY, RIGHTS AND LIABILITIES OF MARRIED WOMEN;**  
4                                   **HUSBAND AND WIFE.**

5 **§48-3-103.   Voidable marriages.**

6           The following marriages are voidable and are void from the  
7 time they are so declared by a judgment order of nullity:

8           (1) Marriages that are prohibited by law on account of either  
9 of the parties having a wife or husband of a prior marriage, when  
10 the prior marriage has not been terminated by divorce, annulment or  
11 death;

12           (2) Marriages that are prohibited by law on account of  
13 consanguinity or affinity between the parties;

14           (3) Marriages solemnized when either of the parties:

- 15           (A) Was mentally incompetent;
- 16           (B) Was afflicted with a sexually transmitted disease;
- 17           (C) Was incapable, because of natural or incurable impotency  
18 of the body, of entering into the marriage state;
- 19           (D) Was under the age of consent; or

20           (E) Had been, prior to the marriage and without the knowledge  
21 of the other party, convicted of a crime punishable by imprisonment  
22 in excess of one year under the applicable law of this state,  
23 another state or the United States;

24           (4) Marriages solemnized when, at the time of the marriage,

1 the wife, without the knowledge of the husband, was with child by  
2 some person other than the husband..

3 **§48-3-105. What persons may not institute annulment action.**

4 An action for annulling a marriage may not be instituted:

5 (a) Where the cause is the natural or incurable impotency of  
6 body of either of the parties to enter the marriage state, by the  
7 party who had knowledge of such incapacity at the time of marriage;

8 (b) Where the cause is fraud, force or coercion, by the party  
9 who was guilty of such fraud, force or coercion, nor by the injured  
10 party if, after knowledge of the facts, he or she has by acts or  
11 conduct confirmed such marriage;

12 (c) Where the cause is affliction with a sexually transmitted  
13 disease existing at the time of marriage, by the party who was so  
14 afflicted if such party has subsequent to the marriage become cured  
15 of such disease, nor by the person who was not so afflicted if he  
16 or she after the curing of the afflicted person has by acts or  
17 conduct confirmed the marriage;

18 (d) Where the cause is the nonage of either of the parties, by  
19 the party who was capable of consenting, nor by the party not so  
20 capable if he or she has by acts or conduct confirmed the marriage  
21 after arriving at the age of consent; or

22 (e) Where the cause is lack of consent on the part of either  
23 of the parties, by the party consenting or bringing about the  
24 marriage;

1           (f) Where the cause is that either of the parties has been  
2 convicted of a crime punishable by imprisonment in excess of one  
3 year under the applicable law of this state, another state or the  
4 United States prior to marriage, by the other party if, after  
5 knowledge of such fact, he or she has cohabited with the party so  
6 convicted; or

7           (g) Where the cause is that the wife was at the time of  
8 marriage with child by some person other than the husband, by the  
9 husband, if after knowledge of the fact he has cohabited with the  
10 wife.