WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4894

By Delegate Steele

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

A BILL to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating to spousal privilege; and expanding 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.

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.

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