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]

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

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 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, grandchild, father, mother, sister or brother of either of them, or minor, as defined in §2-2-10 of this code, or any person deemed incompetent by mental disease, defect, or other disability. 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 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.