WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 797

By Senators Deeds and Woelfel

[Introduced February 15, 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 the testimony of spouses in a criminal case.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. Competency of witnesses.

§57-3-3. Testimony of ~~husband and wife~~ spouses in criminal cases.

In criminal cases ~~husband and wife~~ spouses 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, father, mother, sister or brother of either of them, or for an offense committed by one spouse against the grandchild or stepchild of either spouse, or a child for whom either spouse has guardianship or custodial rights. 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 allow testimony by one spouse regarding an offense of the other spouse against a child or grandchild.

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