

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 139

By Senator Deeds

[Introduced January 14, 2026; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating to
2 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.

1 In criminal cases ~~husband and wife~~ spouses shall be allowed, and, subject to the rules of
2 evidence governing other witnesses, may be compelled to testify in behalf of each other, but
3 neither shall be compelled, nor, without the consent of the other, allowed to be called as a witness
4 against the other except in the case of a prosecution for an offense committed by one against the
5 other, or against the child, grandchild, father, mother, sister or brother of either of them, ~~or~~ minor,
6 as defined in §2-2-10 of this code, ~~or~~ any person deemed incompetent by mental disease, defect,
7 ~~or~~ other disability, or for an offense committed by one spouse against the grandchild or stepchild of
8 either spouse, or a child for whom either spouse has guardianship or custodial rights. The failure of
9 either husband or wife to testify, however, shall create no presumption against the accused, nor be
10 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.