

HOUSE BILL No. 4837

May 27, 1997, Introduced by Reps. Baird, Wallace, Martinez, Cherry, Schroer, Willard, Anthony, Goschka, Ciaramitaro, Brater, Gire, Hale and Hanley and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2162 (MCL 600.2162), as amended by 1994 PA
67.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2162. (1) ~~A husband~~ AN INDIVIDUAL shall not be
2 examined as a witness for or against his ~~wife without her con-~~
3 ~~sent or a wife for or against her husband~~ OR HER SPOUSE without
4 ~~his~~ THAT SPOUSE'S consent ~~,~~ except ~~as follows~~ IN THE FOL-
5 LOWING CIRCUMSTANCES:
6 (a) ~~In suits~~ A SUIT for divorce.
7 (b) ~~In cases of~~ A prosecution for bigamy.
8 (c) ~~In cases of~~ A prosecution for a crime committed
9 against ~~the children~~ A NATURAL OR ADOPTED CHILD, STEPCHILD, OR
10 FOSTER CHILD of either SPOUSE or ~~both~~ AGAINST AN INDIVIDUAL WHO

1 IS LESS THAN 18 YEARS OF AGE IF EITHER SPOUSE IS THAT
2 INDIVIDUAL'S GUARDIAN OR CARES FOR, HAS CUSTODY OF, OR HAS
3 AUTHORITY OVER THAT INDIVIDUAL REGARDLESS OF THE DURATION OF THAT
4 CARE, CUSTODY, OR AUTHORITY.

5 (d) ~~In a~~ A cause of action that ~~grows~~ ARISES out of a
6 personal wrong or injury done by one to the other ~~,~~ or ~~grows~~
7 out of the refusal or neglect to furnish the spouse or children
8 with suitable support.

9 (e) ~~In cases~~ A CASE of desertion or abandonment.

10 (f) ~~In cases~~ A CASE arising under section 6 of ~~chapter 83~~
11 ~~of the Revised Statutes of 1846, as amended, being section 551.6~~
12 ~~of the Michigan Compiled Laws~~ 1846 RS 83, MCL 551.6, relating to
13 marriage.

14 (g) ~~In cases~~ A CASE in which the husband or wife is a
15 party ~~to the record~~ in a suit, action, or proceeding if the
16 title to the separate property of the husband or wife ~~so~~ called
17 or offered as a witness, or ~~if~~ the title to property derived
18 from, through, or under the husband or wife ~~so~~ called or
19 offered as a witness, is the subject matter in controversy or
20 litigation in the suit, action, or proceeding, in opposition to
21 the claim or interest of the other ~~of said married persons,~~
22 SPOUSE who is a party ~~to the record~~ in the suit, action, or
23 proceeding. ~~In all such cases, the~~ THE husband or wife who
24 makes the claim of title, or under or from whom the title is
25 derived, ~~shall be~~ IS as competent to testify in relation to
26 ~~said~~ THE separate property and the title ~~thereto~~ TO THAT
27 PROPERTY without the consent of ~~said husband or wife,~~ THE

1 SPOUSE who is a party ~~to the record~~ in the suit, action, or
2 proceeding ~~,~~ as ~~though~~ IF the marriage ~~relation~~ did not
3 exist.

4 (2) Except ~~that~~ as otherwise provided in subsections (3)
5 and (4), a married person or a person ~~that~~ WHO has been married
6 previously shall not be examined as to any communication made
7 between that person and his or her spouse or former spouse during
8 the marriage.

9 (3) Except as otherwise provided in subsection (1), a mar-
10 ried person may be examined, with his or her consent, as to any
11 communication ~~made~~ between that person and his or her spouse
12 during the marriage regarding a matter described in
13 subsection (1)(a) to (g).

14 (4) A person ~~that~~ WHO has been married previously may be
15 examined, with his or her consent, as to any communication ~~made~~
16 between that person and his or her former spouse during the mar-
17 riage regarding a matter described in subsection (1)(a) to (g).

18 (5) In an action or proceeding instituted by the husband or
19 wife ~~,~~ in consequence of adultery, the husband and wife ~~shall~~
20 ARE not ~~be~~ competent to testify.