

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 4684

(As passed the House, December 7, 1999)

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~~ IN A CIVIL ACTION OR ADMINISTRATIVE PRO-
2 CEEDING, A husband shall not be examined as a witness for or
3 against his wife without her consent or a wife for or against her
4 husband without his consent, except as ~~follows:~~ PROVIDED IN
5 SUBSECTION (3).

6 (2) IN A CRIMINAL PROSECUTION, A HUSBAND SHALL NOT BE
7 EXAMINED AS A WITNESS FOR OR AGAINST HIS WIFE WITHOUT HIS CONSENT
8 OR A WIFE FOR OR AGAINST HER HUSBAND WITHOUT HER CONSENT, EXCEPT
9 AS PROVIDED IN SUBSECTION (3).

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1 (3) THE SPOUSAL PRIVILEGES ESTABLISHED IN SUBSECTIONS (1)
2 AND (2) AND THE CONFIDENTIAL COMMUNICATIONS PRIVILEGE ESTABLISHED
3 IN SUBSECTION (7) DO NOT APPLY IN ANY OF THE FOLLOWING:

4 (a) In ~~suits~~ A SUIT for divorce.

5 (b) In ~~cases of~~ A prosecution for bigamy.

6 (c) In ~~cases of~~ A prosecution for a crime committed
7 against ~~the children~~ A CHILD of either or both OR A CRIME COM-
8 MITTED AGAINST AN INDIVIDUAL WHO IS YOUNGER THAN 18 YEARS OF
9 AGE.

10 (d) In a cause of action that grows out of a personal wrong
11 or injury done by one to the other ~~,~~ or THAT grows out of the
12 refusal or neglect to furnish the spouse or children with suit-
13 able support.

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

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

19 (g) In ~~cases~~ A CASE in which the husband or wife is a
20 party to the record in a suit, action, or proceeding if the title
21 to the separate property of the husband or wife ~~so~~ called or
22 offered as a witness, or if the title to property derived from,
23 through, or under the husband or wife ~~so~~ called or offered as a
24 witness, is the subject matter in controversy or litigation in
25 the suit, action, or proceeding, in opposition to the claim or
26 interest of the other ~~of said married persons~~ SPOUSE, who is a
27 party to the record in the suit, action, or proceeding. In all

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1 such cases, the husband or wife who makes the claim of title, or
2 under or from whom the title is derived, shall be as competent to
3 testify in relation to ~~said~~ THE separate property and the title
4 ~~thereto~~ TO THE SEPARATE PROPERTY without the consent of ~~said~~
5 THE husband or wife, who is a party to the record in the suit,
6 action, or proceeding, as though the marriage relation did not
7 exist.

8 (4) ~~(2)~~ Except ~~that~~ as otherwise provided in subsections
9 ~~(3) and (4)~~ (5) AND (6), a married person or a person ~~that~~
10 WHO has been married previously shall not be examined IN A CIVIL
11 ACTION OR ADMINISTRATIVE PROCEEDING as to any communication made
12 between that person and his or her spouse or former spouse during
13 the marriage.

14 (5) ~~(3) Except as otherwise provided in subsection (1), a~~
15 A married person may be examined IN A CIVIL ACTION OR ADMINISTRA-
16 TIVE PROCEEDING, with his or her consent, as to any communication
17 made between that person and his or her spouse during the mar-
18 riage regarding a matter described in subsection ~~(1)(a)~~ (3)(A)
19 to (g).

20 (6) ~~(4)~~ A person ~~that~~ WHO has been married previously
21 may be examined IN A CIVIL ACTION OR ADMINISTRATIVE PROCEEDING,
22 with his or her consent, as to any communication made between
23 that person and his or her former spouse during the marriage
24 regarding a matter described in subsection ~~(1)(a)~~ (3)(A) to
25 (g).

26 (7) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), A
27 MARRIED PERSON OR A PERSON WHO HAS BEEN MARRIED PREVIOUSLY SHALL

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1 NOT BE EXAMINED IN A CRIMINAL PROSECUTION AS TO ANY COMMUNICATION
2 MADE BETWEEN THAT PERSON AND HIS OR HER SPOUSE OR FORMER SPOUSE
3 DURING THE MARRIAGE WITHOUT THE CONSENT OF THE PERSON TO BE
4 EXAMINED.

5 (8) ~~(5)~~ In an action or proceeding instituted by the hus-
6 band or wife, in consequence of adultery, the husband and wife
7 shall not be competent to testify.

8 Enacting section 1. This act takes effect 90 days after the
9 date this act is enacted.

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