

HOUSE BILL No. 5738

April 2, 1998, Introduced by Reps. Kilpatrick, Bogardus, Bankes, Rison, Schroer, Brater and Thomas 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; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2162. (1) A husband shall not be examined as a witness
2 for or against his wife without ~~her~~ HIS consent or a wife for
3 or against her husband without ~~his~~ HER consent, except as
4 follows:
5 (a) In ~~suits~~ A SUIT for divorce.
6 (b) In ~~cases of~~ A prosecution for bigamy.
7 (c) In ~~cases of~~ A prosecution for a crime committed
8 against ~~the children~~ A CHILD of either or both OR A CRIME
9 COMMITTED AGAINST AN INDIVIDUAL WHO IS YOUNGER THAN 18 YEARS OF
10 AGE.

1 (d) In a cause of action that grows out of a personal wrong
2 or injury done by one to the other ~~—~~ or THAT grows out of the
3 refusal or neglect to furnish the spouse or children with suit-
4 able support.

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

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

10 (g) In ~~cases~~ A CASE in which the husband or wife is a
11 party to the record in a suit, action, or proceeding if the title
12 to the separate property of the husband or wife ~~so~~ called or
13 offered as a witness, or if the title to property derived from,
14 through, or under the husband or wife ~~so~~ called or offered as a
15 witness, is the subject matter in controversy or litigation in
16 the suit, action, or proceeding, in opposition to the claim or
17 interest of the other ~~of said married persons~~ SPOUSE, who is a
18 party to the record in the suit, action, or proceeding. ~~In all~~
19 ~~such cases, the husband or wife who makes the claim of title, or~~
20 ~~under or from whom the title is derived, shall be as competent to~~
21 ~~testify in relation to said separate property and the title~~
22 ~~thereto without the consent of said husband or wife, who is a~~
23 ~~party to the record in the suit, action, or proceeding, as though~~
24 ~~the marriage relation did not exist.~~

25 (2) Except ~~that~~ as otherwise provided in ~~subsections (3)~~
26 ~~and (4)~~ SUBSECTION (1), a married person or a person ~~that~~ WHO
27 has been married previously shall not be examined as to any

1 communication made between that person and his or her spouse or
2 former spouse during the marriage WITHOUT THE PERSON'S CONSENT.

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

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

12 ~~(5) In an action or proceeding instituted by the husband or~~
13 ~~wife, in consequence of adultery, the husband and wife shall not~~
14 ~~be competent to testify.~~

15 Enacting section 1. Sections 166 and 461 of the Michigan
16 penal code, 1931 PA 328, MCL 750.166 and 750.461, and section 19
17 of the revised uniform reciprocal enforcement of support act,
18 1952 PA 8, MCL 780.169, are repealed.