

House Bill 205

In The House

January 14, 1981	Introduced and referred to Committee on Judiciary.
January 23, 1981	Committee recommend bill do pass as amended.
January 26, 1981	Bill printed and placed on members' desks.
January 28, 1981	Second reading do not pass.

1 HOUSE BILL NO. 205
2 INTRODUCED BY Keady
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE SPOUSAL
5 PRIVILEGE LAW TO REQUIRE THE CONSENT OF THE TESTIFYING
6 SPOUSE RATHER THAN THE CONSENT OF THE SPOUSE SUBJECT TO THE
7 TESTIMONY BEFORE A SPOUSE MAY TESTIFY REGARDING THE OTHER
8 SPOUSE IN COURT; AMENDING SECTION 26-1-802, MCA."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 26-1-802, MCA, is amended to read:
12 "26-1-802. Spousal privilege. A husband cannot be
13 examined for or against his wife without her ~~his~~ consent or
14 a wife for or against her husband without ~~his~~ her consent;
15 nor can either, during the marriage or afterward, be,
16 without the consent of ~~the other~~, examined as to any
17 communication made by one to the other during the marriage;
18 but this exception does not apply to a civil action or
19 proceeding by one against the other or to a criminal action
20 or proceeding for a crime committed by one against the
21 other."

-End-

INTRODUCED BILL
HB 205

Approved by Committee
on Judiciary

1 HOUSE BILL NO. 205
 2 INTRODUCED BY KEEDY
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE SPOUSAL
 5 PRIVILEGE LAW TO REQUIRE THE CONSENT OF THE TESTIFYING
 6 SPOUSE RATHER THAN THE CONSENT OF THE SPOUSE SUBJECT TO THE
 7 TESTIMONY BEFORE A SPOUSE MAY TESTIFY REGARDING THE OTHER
 8 SPOUSE IN COURT; AMENDING ~~SECTION~~ SECTIONS 26-1-802 ~~AND~~
 9 46-16-212, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 26-1-802, MCA, is amended to read:
 13 "26-1-802. Spousal privilege. A husband cannot be
 14 examined ~~for-or~~ against his wife without ~~her~~ his consent or
 15 a wife ~~for-or~~ against her husband without ~~his~~ her consent;
 16 nor can either, during the marriage or afterward, be,
 17 without the consent of ~~the other~~ OF THE SPOUSE CALLED TO
 18 TESTIFY, examined as to any communication made by one to the
 19 other during the marriage; but this exception does not apply
 20 to a civil action or proceeding by one against the other or
 21 to a criminal action or proceeding for a crime committed by
 22 one against the other."

23 SECTION 2. SECTION 46-16-212, MCA, IS AMENDED TO READ:
 24 "46-16-212. Competency of spouses. Except with the
 25 consent of ~~both the spouse called to testify~~ or in cases of

1 criminal violence by one upon the other, abandonment or
 2 neglect of children by either party, or abandonment or
 3 neglect of one by the other, neither spouse is a competent
 4 witness ~~for-or~~ against the other in a criminal action or
 5 proceeding to which one or both are parties."

-End-

SECOND READING