

HOUSE BILL NO. 304

1/21 Introduced
1/21 Referred to Judiciary
2/04 Hearing
2/13 Adverse Committee Report
2/14 Bill Killed

HOUSE BILL NO. 304

INTRODUCED BY *J. Brown, Mike Hays, Richard Keenan, Kaye Smith, Spatt, Fuller Connelly*

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING SPOUSAL IMMUNITY AS A LIMITATION ON USE OF EVIDENCE IN CRIMINAL AND CIVIL MATTERS BY REQUIRING THE CONSENT OF THE TESTIFYING SPOUSE RATHER THAN REQUIRING THE CONSENT OF THE OTHER SPOUSE; REPEALING LIMITATIONS ON THE COMPETENCY OF A SPOUSE TO TESTIFY IN CRIMINAL MATTERS; AMENDING SECTIONS 26-1-802, 40-2-109, AND 45-5-604, MCA; AND REPEALING SECTION 46-16-212, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-1-802, MCA, is amended to read:

"26-1-802. Spousal privilege. A husband cannot be examined for or against his wife without her his consent or a wife for or against her husband without his her consent; ~~nor--can--either,~~ during the marriage or afterward, ~~be~~ without the consent of the other, ~~---examined~~ as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other or to a criminal action or proceeding for a crime committed by one against or the other."

Section 2. Section 40-2-109, MCA, is amended to read:

"40-2-109. Right of person to sue spouse for intentional tort. A person has a cause of action against his spouse for damages caused by the spouse's intentional tort against such person, and the common law doctrine of interspousal tort immunity is ~~is-to-that-extent,~~ abolished."

Section 3. Section 45-5-604, MCA, is amended to read:

"45-5-604. Evidence in cases of promotion. (1) On the issue whether a place is a house of prostitution, the following, in addition to all other admissible evidence, shall be admissible:

(a) its general repute;

(b) the repute of the persons who reside in or frequent the place; or

(c) the frequency, timing, and duration of visits by nonresidents.

(2) Testimony of a person against his spouse shall be admissible under ~~45-5-602,--45-5-603,--and--this--section~~ subsection (1)."

NEW SECTION. Section 4. Repealer. Section 46-16-212, MCA, is repealed.

-End-

