

SB 173 INTRODUCED BY BROWN, R., MAZUREK, MILES, ET AL.
REVISE SPOUSAL PRIVILEGE

| | | | |
|------|-----------------------------------|----|----|
| 1/21 | INTRODUCED | | |
| 1/21 | REFERRED TO JUDICIARY | | |
| 2/03 | HEARING | | |
| 2/06 | COMMITTEE REPORT--BILL PASSED | | |
| 2/10 | 2ND READING PASSED AS AMENDED | 31 | 19 |
| 2/12 | 3RD READING PASSED | 38 | 12 |
| | TRANSMITTED TO HOUSE | | |
| 2/18 | REFERRED TO JUDICIARY | | |
| 3/13 | HEARING | | |
| 3/27 | COMMITTEE REPORT--BILL NOT PASSED | | |
| 3/28 | ADVERSE COMMITTEE REPORT ADOPTED | 62 | 34 |
| 3/28 | RETURNED TO SENATE NOT CONCURRED | | |

1 *Senate* BILL NO. *173*
2 INTRODUCED BY *Bob Brown / Request - Miles Eubank*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING SPOUSAL
5 PRIVILEGE AS A LIMITATION ON USE OF EVIDENCE IN CRIMINAL AND
6 CIVIL MATTERS BY REQUIRING THE CONSENT OF THE TESTIFYING
7 SPOUSE RATHER THAN REQUIRING THE CONSENT OF THE OTHER
8 SPOUSE; REPEALING LIMITATIONS ON THE COMPETENCY OF A SPOUSE
9 TO TESTIFY IN CRIMINAL MATTERS; AMENDING SECTIONS 26-1-802,
10 40-2-109, AND 45-5-604, MCA; AND REPEALING SECTION
11 46-16-212, MCA."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14 Section 1. Section 26-1-802, MCA, is amended to read:
15 "26-1-802. Spousal privilege. A husband cannot be
16 examined for or against his wife without her his consent or
17 a wife for or against her husband without his her consent,
18 ~~not-can-either,~~ during the marriage or afterward, ~~be,~~
19 ~~without-the-consent-of-the-other,-examined~~ as to any
20 communication made by one to the other during the marriage;
21 but this exception does not apply to a civil action or
22 proceeding by one against the other or to a criminal action
23 or proceeding for a crime committed by one against or the
24 other."
25 Section 2. Section 40-2-109, MCA, is amended to read:

1 "40-2-109. Right of person to sue spouse for
2 intentional tort. A person has a cause of action against his
3 spouse for damages caused by the spouse's intentional tort
4 against such person, and the common law doctrine of
5 interspousal tort immunity is~~7-to-that--extent,~~ abolished."

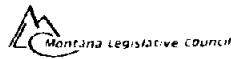
6 Section 3. Section 45-5-604, MCA, is amended to read:
7 "45-5-604. Evidence in cases of promotion. (1) On the
8 issue whether a place is a house of prostitution, the
9 following, in addition to all other admissible evidence,
10 shall be admissible:

- 11 (a) its general repute;
- 12 (b) the repute of the persons who reside in or
- 13 frequent the place; or
- 14 (c) the frequency, timing, and duration of visits by
- 15 nonresidents.

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

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

-End-



APPROVED BY COMMITTEE
ON JUDICIARY

1 INTRODUCTION BY *Senate* BILL NO. *173*
2 *Bob Brown* *Reginald Miles* *Carlisle*
3

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2 INTRODUCED BY B. BROWN, MAZUREK, MILES, EUDAILY

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