- SB 173 INTRODUCED BY BROWN, R., MAZUREK, MILES, ET AL. REVISE SPOUSAL PRIVILEGE
 - 1/21 INTRODUCED
 - 1/21 REFERRED TO JUDICIARY
 - 2/D3 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

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3/27 COMMITTEE REPORT--BILL NOT PASSED

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3/28 ADVERSE COMMITTEE REPORT ADOPTED 62 34

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3/28 RETURNED TO SENATE NOT CONCURRED

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other."

LC 1142/01

LC 1142/01

INTRODUCED BY Bob Brown Margune - Miles Cullidy 1 2 З A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING SPOUSAL 4 PRIVILEGE AS A LIMITATION ON USE OF EVIDENCE IN CRIMINAL AND 5 CIVIL MATTERS BY REQUIRING THE CONSENT OF THE TESTIFYING 6 SPOUSE RATHER THAN REQUIRING THE CONSENT OF THE OTHER 7 8 SPOUSE; REPEALING LIMITATIONS ON THE COMPETENCY OF A SPOUSE TO TESTIFY IN CRIMINAL MATTERS: AMENDING SECTIONS 26-1-802. 9 10 40-2-109, AND 45-5-604, MCA; AND REPEALING SECTION 46-16-212, MCA." 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 26-1-802, MCA, is amended to read: 14 "26-1-802. Spousal privilege. A husband cannot be 15 examined for or against his wife without her his consent or 16 17 a wife for or against her husband without his her consent; nor-can--either, during the marriage or afterward, be-18 without--the--consent--of--the--other;--examined as to any 19 communication made by one to the other during the marriage; 20 but this exception does not apply to a civil action or 21 proceeding by one against the other or to a criminal action 22

"40-2-109. Right of person to sue spouse for 1 intentional tort. A person has a cause of action against his 2 3 spouse for damages caused by the spouse's intentional tort against such person, and the common law doctrine of 4 interspousal tort immunity is7-to-that--extent7 abolished." 5 Section 3. Section 45-5-604, MCA, is amended to read: 6 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 frequent the place: or 13 (c) the frequency, timing, and duration of visits by 14 15 nonresidents. (2) Testimony of a person against his spouse shall-be 16 is admissible under 45-5-6027--45-5-6037--and--this--section 17 18 subsection (1)." 19 NEW SECTION. Section 4. Repealer. Section 46-16-212, 20 MCA, is repealed. ~End-

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

or proceeding for a crime committed by one against or the



-2- INTRODUCED BILL SB-123

APPROVED BY COMMITTEE ON JUDICIARY

Bob Brown Mayur Miles Culaily 1 INTRODUCED BY 2 3 "AN ACT CHANGING SPOUSAL

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

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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

16 examined for or against his wife without her his consent or a wife for or against her husband without his her consent; 17 18 nor-can--either, during the marriage or afterward, bewithout--the--consent--of--the--other;--examined as to any 19 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 or proceeding for a crime committed by one against or the 23 24 other."

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

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"40-2-109. Right of person to sue spouse for 1 intentional tort. A person has a cause of action against his 2 spouse for damages caused by the spouse's intentional tort 3 against such person, and the common law doctrine of 4 interspousal tort immunity is7-to-that--extent7 abolished." 5 Section 3. Section 45-5-604, MCA, is amended to read: 6 "45-5-604. Evidence in cases of promotion. (1) On the 7 issue whether a place is a house of prostitution, the 8 following, in addition to all other admissible evidence, q 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. (2) Testimony of a person against his spouse shall-be 16 17 is admissible under 45-5-6027--45-5-6037--and--this--section 18 subsection (1)." 19

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

-End-

-2- SECOND READING 58-/73

SB 0173/02

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SB	0173/02	
00	44/3/02	

1	SENATE BILL NO. 173	1	"40-2-109. Right of person to sue spouse for
2	INTRODUCED BY B. BROWN, MAZUREK, MILES, EUDAILY	2	intentional tort. A person has a cause of action against his
3		3	spouse for damages caused by the spouse's intentional tort
4	A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING SPOUSAL	4	against such person, and the common law doctrine of
5	PRIVILEGE AS A LIMITATION ON USE OF EVIDENCE IN CRIMINAL AND	5	interspousal tort immunity is7-to-thatextent7 abolished."
6	CIVIL MATTERS BY REQUIRING THE CONSENT OF THE TESTIFYING	6	Section 3. Section 45-5-604, MCA, is amended to read:
7	SPOUSE RATHER THAN REQUIRING THE CONSENT OF THE OTHER	7	"45-5-604. Evidence in cases of promotion. (1) On the
8	SPOUSE; REPEALING LIMITATIONS ON THE COMPETENCY OF A SPOUSE	8	issue whether a place is a house of prostitution, the
9	TO TESTIFY IN CRIMINAL MATTERS; AMENDING SECTIONS 26-1-802,	9	following, in addition to all other admissible evidence,
10	40-2-109, AND 45-5-604, MCA; AND REPEALING SECTION	10	shall be admissible:
11	46-16-212, MCA."	11	(a) its general repute;
12		12	(b) the repute of the persons who reside in or
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	13	frequent the place; or
14	Section 1. Section 26-1-802, MCA, is amended to read:	14	(c) the frequency, timing, and duration of visits by
15	"26-1-802. Spousal privilege. A husband cannot be	15	nonresidents.
16	examined for or against his wife without her his consent or	16	(2) Testimony of a person against his spouse shall-be
17	a wife for or against her husband without his her consent;	17	is admissible under 45-5-602745-5-6037andthissection
18	nor-caneither, during the marriage or afterward, bey	18	subsection (1)."
19	withouttheconsentoftheother7examined as to any	19	NEW SECTION. Section 4. Repealer. Section 46-16-212,
20	communication made by one to the other during the marriage;	20	MCA, is repealed.
21	but this exception does not apply to a civil action or		-End-
22	proceeding by one against the other or to a criminal action		
23	or proceeding for a crime committed by one against or		

24 25

AGAINST the other."

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



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