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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 401

Session of  
1985

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INTRODUCED BY WILT, BRIGHTBILL, ANDREZESKI AND SALVATORE,  
FEBRUARY 26, 1985

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REFERRED TO JUDICIARY, FEBRUARY 26, 1985

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing for  
3 spouses as witnesses against each other.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 5913 of Title 42 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 5913. Spouses as witnesses against each other.

9 [Except as otherwise provided in this subchapter, in a  
10 criminal proceeding husband and wife shall not be competent or  
11 permitted to testify against each other, except that in  
12 proceedings for desertion and maintenance, and in any criminal  
13 proceeding against either for bodily injury or violence  
14 attempted, done or threatened upon the other, or upon the minor  
15 children of said husband and wife, or the minor children of  
16 either of them, or any minor child in their care or custody, or  
17 in the care or custody of either of them, each shall be a  
18 competent witness against the other, and except also that either

1 of them shall be competent merely to prove the fact of marriage,  
2 in support of a criminal charge of bigamy alleged to have been  
3 committed by or with the other.]

4 (a) General rule.--A spouse cannot be compelled to be a  
5 witness in any criminal proceeding filed against the other  
6 spouse.

7 (b) Decision resides in witness-spouse.--The decision  
8 whether or not to testify resides in the witness-spouse.

9 (c) Confidential communications.--A spouse cannot testify  
10 against the other spouse at a criminal proceeding where the  
11 substance of the testimony concerns confidential communications  
12 made between the marriage partners during the course of their  
13 marriage.

14 (d) Definition.--As used in this section the term "spouse"  
15 does not include marital partners who have been separated for  
16 more than one year or who have instituted divorce proceedings to  
17 end their marriage.

18 Section 2. This act shall take effect in 60 days.