

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 570 Session of
1989

INTRODUCED BY HAGARTY, BLAUM, MOEHLMANN, HECKLER, RITTER,
McVERRY, VEON, O'BRIEN, MORRIS, JACKSON, TIGUE, FARMER,
BATTISTO, HERMAN, DEMPSEY, KUKOVICH, NAHILL, VROON, SCHEETZ,
BELARDI, MERRY, MAINE, CLYMER, JOHNSON, WESTON, SAURMAN,
CIVERA, BISHOP, LEVDANSKY, MICHLOVIC, BILLOW, MARSICO,
GRUPPO, J. TAYLOR, E. Z. TAYLOR, JAMES, NOYE, LEE AND
J. H. CLARK, FEBRUARY 15, 1989

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 10, 1989

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 spousal privilege in evidence.

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

6 Section 1. ~~Section 5913~~ SECTIONS 5913 AND 5914 of Title 42 <—
7 of the Pennsylvania Consolidated Statutes ~~is~~ ARE amended to <—
8 read:

9 § 5913. Spouses as witnesses against each other.

10 Except as otherwise provided in this subchapter, in a
11 criminal proceeding husband and wife shall [not be competent or
12 permitted] have the privilege, which may be waived by either
13 spouse, not to testify against each other[,]; except that there
14 shall be no such privilege:

15 (1) in proceedings for desertion and maintenance[, and];

1 (2) in any criminal proceeding against either for bodily
2 injury or violence attempted, done or threatened upon the
3 other, or upon the minor children of said husband and wife,
4 or the minor children of either of them, or any minor child
5 in their care or custody, or in the care or custody of either
6 of them[, each shall be a competent witness against the
7 other, and except also that either of them shall be competent
8 merely];

9 (3) applicable to [prove] proof of the fact of marriage,
10 in support of a criminal charge of bigamy alleged to have
11 been committed by or with the other; or

12 (4) in any criminal proceeding ~~for~~ IN WHICH ONE OF THE <—
13 CHARGES PENDING AGAINST THE DEFENDANT INCLUDES murder,
14 involuntary deviate sexual intercourse or rape.

15 § 5914. CONFIDENTIAL COMMUNICATIONS BETWEEN SPOUSES. <—

16 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBCHAPTER, IN A
17 CRIMINAL PROCEEDING NEITHER HUSBAND NOR WIFE SHALL BE COMPETENT
18 OR PERMITTED TO TESTIFY TO CONFIDENTIAL COMMUNICATIONS MADE BY
19 ONE TO THE OTHER, UNLESS THIS PRIVILEGE IS WAIVED [UPON THE
20 TRIAL.] BY EITHER SPOUSE; EXCEPT THAT THERE SHALL BE NO SUCH
21 PRIVILEGE:

22 (1) IN PROCEEDINGS FOR DESERTION AND MAINTENANCE;

23 (2) IN ANY CRIMINAL PROCEEDING AGAINST EITHER FOR BODILY
24 INJURY OR VIOLENCE ATTEMPTED, DONE OR THREATENED UPON THE
25 OTHER, OR UPON THE MINOR CHILDREN OF SAID HUSBAND AND WIFE,
26 OR THE MINOR CHILDREN OF EITHER OF THEM, OR ANY MINOR CHILD
27 IN THE CARE OR CUSTODY OF EITHER OF THEM;

28 (3) APPLICABLE TO PROOF OF THE FACT OF MARRIAGE, IN
29 SUPPORT OF A CRIMINAL CHARGE OF BIGAMY ALLEGED TO HAVE BEEN
30 COMMITTED BY OR WITH THE OTHER; OR

1 (4) IN ANY CRIMINAL PROCEEDING IN WHICH ONE OF THE
2 CHARGES PENDING AGAINST THE DEFENDANT INCLUDES MURDER,
3 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE OR RAPE.

4 Section 2. This act shall take effect ~~in 60 days~~

<—

5 IMMEDIATELY.

<—