[No. 11]

(SB 104)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2162 (MCL 600.2162), as amended by 2000 PA 182.

The People of the State of Michigan enact:

600.2162 Husband or wife as witness for or against other.

Sec. 2162. (1) In a civil action or administrative proceeding, a husband shall not be examined as a witness for or against his wife without her consent or a wife for or against her husband without his consent, except as provided in subsection (3).

(2) In a criminal prosecution, a husband shall not be examined as a witness for or against his wife without his consent or a wife for or against her husband without her consent, except as provided in subsection (3).

(3) The spousal privileges established in subsections (1) and (2) and the confidential communications privilege established in subsection (7) do not apply in any of the following:

(a) In a suit for divorce, separate maintenance, or annulment.

(b) In a prosecution for bigamy.

(c) In a prosecution for a crime committed against a child of either or both or a crime committed against an individual who is younger than 18 years of age.

(d) In a cause of action that grows out of a personal wrong or injury done by one to the other or that grows out of the refusal or neglect to furnish the spouse or children with suitable support.

(e) In a case of desertion or abandonment.

(f) In a case in which the husband or wife is a party to the record in a suit, action, or proceeding if the title to the separate property of the husband or wife called or offered as a witness, or if the title to property derived from, through, or under the husband or wife called or offered as a witness, is the subject matter in controversy or litigation in the suit, action, or proceeding, in opposition to the claim or interest of the other spouse, who is a party to the record in the suit, action, or proceeding. In all such cases, the husband or wife who makes the claim of title, or under or from whom the title is derived, shall be as competent to testify in relation to the separate property and the title to the separate property without the consent of the husband or wife, who is a party to the record in the suit, action, or proceeding, as though the marriage relation did not exist.

(4) Except as otherwise provided in subsections (5) and (6), a married person or a person who has been married previously shall not be examined in a civil action or administrative proceeding as to any communication made between that person and his or her spouse or former spouse during the marriage.

(5) A married person may be examined in a civil action or administrative proceeding, with his or her consent, as to any communication made between that person and his or her spouse during the marriage regarding a matter described in subsection (3).

(6) A person who has been married previously may be examined in a civil action or administrative proceeding, with his or her consent, as to any communication made between that person and his or her former spouse during the marriage regarding a matter described in subsection (3).

(7) Except as otherwise provided in subsection (3), a married person or a person who has been married previously shall not be examined in a criminal prosecution as to any communication made between that person and his or her spouse or former spouse during the marriage without the consent of the person to be examined.

(8) In an action or proceeding instituted by the husband or wife, in consequence of adultery, the husband and wife are not competent to testify.

This act is ordered to take immediate effect.
Approved May 29, 2001.
Filed with Secretary of State May 29, 2001.