

LEGISLATIVE BILL 696

Approved by the Governor February 24, 1984

Introduced by Beutler, 28; H. Peterson, 35

AN ACT relating to the husband-wife privilege; to amend section 27-505, Reissue Revised Statutes of Nebraska, 1943; to define terms; to change provisions relating to testimony against one's spouse in a criminal case; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 27-505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

27-505. (1) Neither husband nor wife can be examined in any case as to any confidential communication made by one to the other while married, nor shall they after the marriage relation ceases be permitted to reveal in testimony any such communication while the marriage subsisted except as otherwise provided by law. This privilege may be waived only with the consent of both spouses. After the death of one, it may be waived by the survivor.

For purposes of this section (a) a confidential communication shall mean a communication which is made privately by any person to his or her spouse with no intention that such communication be disclosed to any other person and (b) communication shall include any action on the part of a spouse if the action reasonably appears to have been intended to communicate a message from one spouse to the other.

(2) During the existence of the marriage, a husband and wife can in no criminal case be a witness against the other. This privilege may be waived only with the consent of both spouses.

(3) These privileges may not be claimed:

(a) In any criminal case where the crime charged is ~~rape, adultery~~ a crime of violence, bigamy, incest, or any crime committed by one against the person or property of the other or of a child of either or in any criminal prosecution against the husband for wife or child abandonment;

(b) In any case brought by either husband or wife against a third person relating to their marriage relationship or the interruption of or interference with such relationship; or

(c) In any case brought by either husband or wife against the other for divorce or annulment of the marriage or for support.

Sec. 2. That original section 27-505, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.