

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

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.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1994, Act 67, Imd. Eff. Apr. 11, 1994;—Am. 2000, Act 182, Eff. Oct. 1, 2000;—Am. 2001, Act 11, Imd. Eff. May 29, 2001.

Compiler's note: Section 2 of Act 67 of 1994 reads as follows:

“This amendatory act applies to criminal cases in which a complaint and warrant are authorized on or after July 1, 1994. This amendatory act applies to civil cases which are pending on or filed on or after July 1, 1994.”