
WEST VIRGINIA CODE CHAPTER 57
ARTICLE 3

WV Legislature

§57-3-1. Party or interested person competent as witness; exception as to transaction or communication with deceased or insane person; right of person sued to give evidence in action for death by wrongful act.

No person offered as a witness in any civil action, suit or proceeding shall be excluded by reason of his interest in the event of the action, suit or proceeding, or because he is a party thereto, except as follows: No party to any action, suit or proceeding, nor any person interested in the event thereof, nor any person from, through or under whom any such party or interested person derives any interest or title by assignment or otherwise, shall be examined as a witness in regard to any personal transaction or communication between such witness and a person at the time of such examination, deceased, insane or lunatic, against the executor, administrator, heir at law, next of kin, assignee, legatee, devisee or survivor of such person, or the assignee or committee of such insane person or lunatic. But this prohibition shall not extend to any transaction or communication as to which any such executor, administrator, heir at law, next of kin, assignee, legatee, devisee, survivor or committee shall be examined on his own behalf, nor as to which the testimony of such deceased person or lunatic shall be given in evidence: Provided, however, That where an action is brought for causing the death of any person by any wrongful act, neglect or default under article seven, chapter fifty-five of this code, the person sued, or the servant, agent or employee of any firm or corporation sued, shall have the right to give evidence in any case in which he or it is sued, but he may not give evidence of any conversation with the deceased.

§57-3-2. Competency of husband and wife to testify.

Husband and wife shall be competent witnesses to testify for or against each other in all cases, civil and criminal, except as otherwise provided.

WV Legislature

§57-3-3. Testimony of husband and wife in criminal cases.

In criminal cases husband and wife shall be allowed, and, subject to the rules of evidence governing other witnesses, may be compelled to testify in behalf of each other, but neither shall be compelled, nor, without the consent of the other, allowed to be called as a witness against the other except in the case of a prosecution for an offense committed by one against the other, or against the child, grandchild, father, mother, sister or brother of either of them, or minor, as defined in §2-2-10 of this code, or any person deemed incompetent by mental disease, defect, or other disability. The failure of either husband or wife to testify, however, shall create no presumption against the accused, nor be the subject of any comment before the court or jury by anyone.

§57-3-4. Confidential communications between husband and wife.

Neither husband nor wife shall, without the consent of the other, be examined in any case as to any confidential communication made by one to the other while married, nor shall either be permitted, without such consent, to reveal in testimony after the marriage relation ceases any such communication made while the marriage existed.

WV Legislature

§57-3-5. Competency of convicts as witnesses.

Conviction of felony or perjury shall not render the convict incompetent to testify, but the fact of conviction may be shown in evidence to affect his credibility.

WV Legislature

§57-3-6. Competency of accused as witness.

In any trial or examination in or before any court or officer for a felony or misdemeanor, the accused shall, with his consent (but not otherwise) be a competent witness on such trial or examination; and if he so voluntarily becomes a witness he shall, as to all matters relevant to the issue, be deemed to have waived his privilege of not giving evidence against himself and shall be subject to cross-examination as any other witness; but his failure to testify shall create no presumption against him nor be the subject of any comment before the court or jury by anyone.

§57-3-7. No person incompetent as witness by reason of race or color.

No person shall be incompetent as a witness on account of race or color.

WV Legislature

§57-3-8. Competency of chiropractors as witnesses.

Practitioners of chiropractic shall be permitted to qualify as competent witnesses, insofar as chiropractic testimony or chiropractic facts may be concerned in any civil action in any court in this state.

WV Legislature

§57-3-9. Communications to priests, nuns, clergy, rabbis, Christian Science practitioners or other religious counselors not subject to being compelled as testimony.

No priest, nun, rabbi, duly accredited Christian Science practitioner or member of the clergy authorized to celebrate the rites of marriage in this state pursuant to the provisions of article two, chapter forty-eight of this code shall be compelled to testify in any criminal or grand jury proceedings or in any domestic relations action in any court of this state:

(1) With respect to any confession or communication, made to such person, in his or her professional capacity in the course of discipline enjoined by the church or other religious body to which he or she belongs, without the consent of the person making such confession or communication; or

(2) With respect to any communication made to such person, in his or her professional capacity, by either spouse, in connection with any effort to reconcile estranged spouses, without the consent of the spouse making the communication. This subsection is in addition to the protection and privilege afforded pursuant to section three hundred one, article one, chapter forty-eight of this code.

§57-3-10. Reporters' Privilege.

(a) "Reporter" means a person who regularly gathers, prepares, collects, photographs, records, writes, edits, reports, or publishes news or information that concerns matters of public interest for dissemination to the public for a substantial portion of the person's livelihood, or a supervisor, or employer of that person in that capacity: Provided, That a student reporter at an accredited educational institution who meets all of the requirements of this definition, except that his or her reporting may not provide a portion of his or her livelihood, meets the definition of reporter for purposes of this section.

(b) No reporter may be compelled to:

(1) Testify in any civil, criminal, administrative or grand jury proceeding in any court in this state concerning the confidential source of any published or unpublished information obtained by the reporter in the course of the above described activities without the consent of the confidential source, unless such testimony is necessary to prevent imminent death, serious bodily injury or unjust incarceration; or

(2) Produce any information or testimony that would identify a confidential source, without the consent of the confidential source, unless such testimony or information is necessary to prevent imminent death, serious bodily injury or unjust incarceration.

(c) Nothing in this section shall be read to limit any existing Constitutional protections afforded any person under the United States or West Virginia Constitutions.