

House Study Bill 528 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to spousal privilege and confidential
2 communication between spouses.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.74, Code 2022, is amended to read as
2 follows:

3 **232.74 Evidence not privileged or excluded.**

4 Sections 622.9 and 622.10 and any other statute or rule of
5 evidence which excludes or makes privileged the testimony of
6 a ~~husband or wife~~ spouse against the other or the testimony
7 of a health practitioner or mental health professional as to
8 confidential communications, do not apply to evidence regarding
9 a child's injuries or the cause of the injuries in any judicial
10 proceeding, civil or criminal, resulting from a report pursuant
11 to this chapter or relating to the subject matter of such a
12 report.

13 Sec. 2. Section 622.8, Code 2022, is amended to read as
14 follows:

15 **622.8 Witness for each other.**

16 In all civil and criminal cases ~~the husband and wife~~ spouses
17 may be witnesses for each other.

18 Sec. 3. Section 622.9, Code 2022, is amended to read as
19 follows:

20 **622.9 Communications between ~~husband and wife~~ spouses.**

21 1. Neither ~~husband nor wife~~ spouse can be examined in any
22 case as to any communication made by the one to the other while
23 married, nor shall they, after the marriage relation ceases, be
24 permitted to reveal in testimony any such communication made
25 while the marriage subsisted.

26 2. Notwithstanding subsection 1, a spouse may be
27 examined about and reveal in testimony any of the following
28 communications:

29 a. Communications of threats against the spouse or a third
30 party.

31 b. Communications that have been transmitted or revealed to
32 a third party.

33 c. Communications that are criminal in nature which place a
34 strain on the marital relationship.

35 d. Communications between spouses who are separated.

1 e. Communications that have no relation to their mutual
2 trust and confidence as spouses.

3 f. Other communications that the court determines were not
4 intended to be confidential.

5 Sec. 4. Section 726.4, Code 2022, is amended to read as
6 follows:

7 **726.4 ~~Husband or wife~~ Spouses may be ~~witness~~ witnesses.**

8 In all prosecutions under section 726.3, 726.5, or 726.6,
9 ~~the husband or wife is a~~ spouses are competent ~~witness~~
10 witnesses for the state and may testify to relevant acts or
11 communications between them.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to the privilege of confidential
16 communications between spouses in a case. Marital privilege
17 allows communication that occurs between spouses to remain
18 confidential and free from public exposure and protects spouses
19 from being required to testify against one another in a civil
20 or criminal case. The bill specifies six exceptions to the
21 marital privilege: (1) threats against spouse or third party,
22 (2) communications that have been disclosed to a third party,
23 (3) communications criminal in nature, (4) communications
24 between spouses that are separated, (5) communications that
25 have no relation to their mutual trust and confidence as
26 spouses, and (6) other communications that the court determines
27 were not intended to be confidential. Current law does not
28 provide exceptions.

29 The bill makes conforming changes.