

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-271.2 of the Code of Virginia, relating to the testimony of husband*  
3 *and wife in criminal cases.*

4  
5 Approved

[H 879]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 19.2-271.2 of the Code of Virginia is amended and reenacted as follows:**

8 § 19.2-271.2. Testimony of husband and wife in criminal cases.

9 In criminal cases husband and wife shall be allowed, and, subject to the rules of evidence governing  
10 other witnesses and subject to the exception stated in § 8.01-398, may be compelled to testify in behalf  
11 of each other, but neither shall be compelled, ~~nor, without the consent of the other, allowed,~~ to be called  
12 as a witness against the other, except (i) in the case of a prosecution for an offense committed by one  
13 against the other or against a minor child of either, (ii) in any case where either is charged with forgery  
14 of the name of the other or uttering or attempting to utter a writing bearing the allegedly forged  
15 signature of the other or (iii) in any proceeding relating to a violation of the laws pertaining to criminal  
16 sexual assault (§§ 18.2-61 through 18.2-67.10), crimes against nature (§ 18.2-361) involving a minor as a  
17 victim and provided the defendant and the victim are not married to each other, incest (§ 18.2-366), or  
18 abuse of children (§§ 18.2-370 through 18.2-371). The failure of either husband or wife to testify,  
19 however, shall create no presumption against the accused, nor be the subject of any comment before the  
20 court or jury by any attorney.

21 In the prosecution for a criminal offense as set forth in (i), (ii) or (iii) above, each shall be a  
22 competent witness except as to privileged communications.

ENROLLED

HB879ER