

## **VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday, the 21st day of March, 2025.*

It is ordered that Rule 2:504, heretofore adopted and promulgated by this Court and now in effect, be and hereby is amended to become effective immediately. The purpose of this amendment is to revert the rule to its intended amendment in this Court's order dated January 12, 2021, effective that date, and clarify the meaning of the word "shall" as intended in this Court's order dated November 13, 2020, effective July 1, 2021.

### **RULES OF SUPREME COURT OF VIRGINIA**

#### **PART TWO**

#### **VIRGINIA RULES OF EVIDENCE**

#### **ARTICLE I. GENERAL PROVISIONS**

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#### **Rule 2:504. SPOUSAL TESTIMONY AND MARITAL COMMUNICATIONS**

**PRIVILEGES (Rule 2:504(a) derived from Code § 8.01-398; and Rule 2:504(b) derived from Code § 19.2-271.2).**

(a) *Privileged Marital Communications in Civil Cases.*

1. Persons married to each other are competent witnesses to testify for or against each other in all civil actions.

2. In any civil proceeding, a person has a privilege to refuse to disclose, and to prevent anyone else from disclosing, any confidential communication between such person and his or her spouse during their marriage, regardless of whether such person is married to that spouse at the time he or she objects to disclosure. This privilege may not be asserted in any proceeding in which the spouses are adverse parties, or in which either spouse is charged with a crime or tort against the person or property of the other or against the minor child of either spouse. For the purposes of this Rule, "confidential communication" means a communication made privately by a person to his or her spouse that is not intended for disclosure to any other person.

(b) *Spousal Testimony in Criminal Cases.*

1. In criminal cases persons married to each other are allowed, and, subject to the Rules of Evidence governing other witnesses, may be compelled to testify in behalf of each other, but neither may be compelled to be called as a witness against the other, except (i) in the case of a prosecution for an offense committed by one against the other, against a minor child of either, or against the property of either; (ii) in any case where either is charged with forgery of the name of the other or uttering or attempting to utter a writing bearing the allegedly forged signature of the other; or (iii) in any proceeding relating to a violation of the laws pertaining to criminal sexual assault (§§ 18.2-61 through 18.2-67.10), crimes against nature (§ 18.2-361) involving a minor as a victim and provided the defendant and the victim are not married to each other, incest (§ 18.2-366), or abuse of children (§§ 18.2-370 through 18.2-371). The failure of either spouse to testify, however, creates no presumption against the accused, and may not be the subject of any comment before the court or jury by any attorney.

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A Copy,

Teste:

  
Clerk