I.R.E. 504. Husband-Wife Privilege.

Idaho Rules of Evidence Rule 504. Husband-Wife Privilege.

(a) Definition. A communication is "confidential" if it is made during marriage privately by any person to the person's spouse, and is not intended for disclosure to any other person.

(b) General rule of privilege. A person has a privilege to prevent testimony as to any confidential communication between the person and his or her spouse made during the marriage.

(c) Who may claim the privilege. The privilege may be claimed by the person or by the spouse on behalf of the person, or by the lawyer for the person on behalf of the person. The authority of the spouse or lawyer to do so is presumed in the absence of evidence to the contrary.

(d) Exceptions. There is no privilege under this rule:

(1) Child related communications. In a criminal or civil action or proceeding as to a communication relevant to an issue concerning the physical, mental or emotional condition of or injury to a child, or concerning the welfare of a child including, but not limited to the abuse, abandonment or neglect of a child.

(2) Criminal action. In a criminal action or proceeding in which one spouse is charged with a crime against the person or property of (A) the other spouse, (B) a person residing in the household of either spouse, or (C) a third person committed in the course of committing a crime against the other spouse or a person residing in the household of either spouse.

(3) Special proceeding. In proceedings (A) under the Reciprocal Enforcement of Support Act, or (B) concerning desertion or non-support of a spouse.

(4) Civil action. In a civil action or proceeding by one spouse against the other involving the person or property of the other.

(5) Proceedings for guardianship, conservatorship or hospitalization. There is no privilege under this rule for communications relevant to an issue in proceedings for the appointment of a guardian or conservator for a person for mental illness or to hospitalize the person for mental illness.

(Adopted January 8, 1985, effective July 1, 1985; amended June 15, 1987, effective November 1, 1987; amended March 18, 1998, effective July 1, 1998.)

Source URL: http://www.isc.idaho.gov/ire504