

## Breaking Down Elements of a Statute

### 1. Bob and Keri, Husband and Wife

#### Facts:

Bob is married to Keri. While in an elevator, Bob told Keri that he had “cocaine” in his pocket. Unfortunately for Bob, a plain clothes police officer was also in the elevator and overheard the conversation. He arrested Bob for possession of a controlled substance, and now the D.A. wants Keri to *testify*. Does Keri have to *testify*?

#### Statute:

Any private verbal or written communication between a husband and wife is privileged, and a party possessing the *privilege* (the accused) may not be required to *testify*, and may prevent the spouse from testifying.

#### STATUTORY WORKSHEET - ELEMENTS

	STATUTORY REQUIREMENTS	CLIENT'S FACTS
ELEMENT #1		
ELEMENT #2		
ELEMENT #3		
ELEMENT #4		
ELEMENT #5		
ELEMENT #6		
EXCEPTIONS?		

Bob and Keri - Break the rule into elements.

*1. Any private*

This element does not apply since the communication was in an elevator with others present

*2. verbal or written communication*

This element applies because there was communication

*3. between a husband*

This element applies because the husband was involved

*4. and wife*

This element applies since the wife was involved

*5. is privileged,*

This element applies

*6. and a party possessing the privilege (the accused) may not be required to testify, and may prevent the spouse from testifying.*

This element applies

## **Application**

If any element fails to apply, the entire statute does not apply. Therefore, since the first element above does not apply, the statute does not apply, and the wife will have to testify.