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**By: Delegate Taylor and Chairman, Judiciary Committee (Family Violence Council), and Delegates Dewberry, Hurson, Arnick, Busch, Curran, Harrison, Hixson, Kopp, Menes, Owings, Rawlings, Hecht, Grosfeld, Montague, Love, Pendergrass, Conway, Cadden, Stup, Watson, Petzold, Nathan-Pulliam, Willis, McIntosh, Parker, Rosenberg, B. Hughes, Branch, Edwards, Donoghue, Franchot, Brinkley, Eckardt, Bobo, Conroy, Fry, Hubbard, and Pitkin**

Introduced and read first time: January 30, 1997

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Evidence - Assault Trials - Spousal Privilege - Record of Assertion**

3 FOR the purpose of requiring that the clerk of the court make and maintain a separate  
4 record of the refusal of certain witnesses to testify in certain assault trials under  
5 certain circumstances; specifying the contents of the record; providing that the  
6 record is not subject to expungement; and generally relating to the privilege of the  
7 spouse of a person on trial for certain crimes to refuse to testify.

8 BY repealing and reenacting, with amendments,  
9 Article - Courts and Judicial Proceedings  
10 Section 9-106  
11 Annotated Code of Maryland  
12 (1995 Replacement Volume and 1996 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Courts and Judicial Proceedings**

16 9-106.

17 (A) The spouse of a person on trial for a crime may not be compelled to testify as  
18 an adverse witness unless the charge involves:

19 (1) The abuse of a child under 18; or

20 (2) Assault in any degree in which the spouse is a victim if:

21 (i) The person on trial was previously charged with assault in any  
22 degree or assault and battery of the spouse;

23 (ii) The spouse was sworn to testify at the previous trial; and

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1 (iii) The spouse refused to testify at the previous trial on the basis of  
2 the provisions of this section.

3 (B) (1) IF THE SPOUSE OF A PERSON ON TRIAL FOR ASSAULT IN ANY  
4 DEGREE IN WHICH THE SPOUSE WAS A VICTIM IS SWORN TO TESTIFY AT THE TRIAL  
5 AND REFUSES TO TESTIFY ON THE BASIS OF THE PROVISIONS OF THIS SECTION, THE  
6 CLERK OF THE COURT SHALL MAKE AND MAINTAIN A SEPARATE RECORD OF THAT  
7 REFUSAL.

8 (2) THE RECORD SHALL INCLUDE THE DEFENDANT'S NAME, THE  
9 SPOUSE'S NAME, THE CASE FILE NUMBER, A COPY OF THE CHARGING DOCUMENT,  
10 AND THE DATE OF THE TRIAL IN WHICH THE SPOUSE REFUSED TO TESTIFY.

11 (3) THE RECORD IS NOT SUBJECT TO EXPUNGEMENT UNDER ARTICLE  
12 27, §§ 735 THROUGH 741 OF THE CODE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 1997.