
By: **Delegates Owings and O'Donnell**
Introduced and read first time: February 9, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Compelled Spousal Testimony - Spouse of Person Charged with a Crime**

3 FOR the purpose of altering situations in which the spouse of a person on trial for a
4 crime may be compelled to testify as an adverse witness; and generally relating
5 to compelled spousal testimony.

6 BY repealing and reenacting, with amendments,
7 Article - Courts and Judicial Proceedings
8 Section 9-106
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2003 Supplement)

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

13 **Article - Courts and Judicial Proceedings**

14 9-106.

15 (a) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
16 spouse of a person on trial for a crime may not be compelled to testify as an adverse
17 witness unless the charge involves:

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

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

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

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

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

1 (b) THE SPOUSE OF A PERSON ON TRIAL FOR A CRIME MAY BE COMPELLED TO
2 TESTIFY AS AN ADVERSE WITNESS IF THE CHARGE INVOLVES:

3 (1) THE ABUSE OF A CHILD UNDER 18; OR

4 (2) ASSAULT IN ANY DEGREE IN WHICH THE SPOUSE IS A VICTIM.

5 (C) (1) If the spouse of a person on trial for assault in any degree in which
6 the spouse was a victim is sworn to testify at the trial and refuses to testify on the
7 basis of the provisions of this section, the clerk of the court shall make and maintain
8 a record of that refusal, including the name of the spouse refusing to testify.

9 (2) When an expungement order is presented to the clerk of the court in
10 a case involving a charge of assault in any degree, the clerk shall check the record to
11 determine whether the defendant's spouse refused to testify on the basis of the
12 provisions of this section.

13 (3) If the record shows such refusal, the clerk shall make and maintain a
14 separate record of the refusal, including the defendant's name, the spouse's name, the
15 case file number, a copy of the charging document, and the date of the trial in which
16 the spouse refused to testify.

17 (4) The separate record specified under paragraph (3) of this subsection:

18 (i) Is not subject to expungement under Title 10, Subtitle 1 of the
19 Criminal Procedure Article; and

20 (ii) Shall be available only to the court, a State's Attorney's office,
21 and an attorney for the defendant.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2004.