

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 808
Judiciary

(Delegates Owings and O'Donnell)

Compelled Spousal Testimony - Spouse of Person Charged with a Crime

This bill provides that a spouse can be compelled to testify as an adverse witness against the other spouse, if the charge involves: (1) the abuse of a child under 18; or (2) assault in any degree in which the spouse is a victim.

Fiscal Summary

State Effect: None. The change is procedural in nature and would not directly affect District Court finances.

Local Effect: None. The change is procedural in nature and would not directly affect circuit court finances.

Small Business Effect: None.

Analysis

Current Law: A spouse victim cannot be compelled to testify in a spousal assault trial if the charge is the defendant's first offense and the victim invokes spousal privilege.

Background: Under common law, which is followed in Maryland unless abrogated by statute, spouses were not allowed to testify against each other in criminal actions. Common law viewed husband and wife as a single entity, which could not be forced to testify against itself.

In recent years, an increasing number of states have abolished spousal privilege in domestic violence cases, either judicially, statutorily, or by court rule. Some have abolished it completely; while in others, including Maryland, it may be asserted only a certain number of times (once in Maryland) against the same alleged abuser. There is also a small but growing body of law expanding the exception to cover other alleged victims, such as children or affiliated third parties (for example, a spouse's new partner).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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mh/jr

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