

HOUSE BILL 765

D4
HB 331/05 – JUD

71r2020

By: **Delegates Dumais, Feldman, Frush, Hecht, Hucker, Ivey, Jones, Kaiser, Krysiak, Lawton, Lee, Manno, Mizeur, Pena-Melnyk, and Rice**

Introduced and read first time: February 9, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence – Spousal Privilege – Repeal**

3 FOR the purpose of repealing a provision authorizing the spouse of a person on trial
4 for assault in which the spouse is a victim to refuse to testify as an adverse
5 witness under certain circumstances; repealing certain provisions relating to
6 the record of the assertion of the spousal privilege; and generally relating to
7 domestic violence and the repeal of a certain spousal privilege.

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 9–106
11 Annotated Code of Maryland
12 (2006 Replacement Volume)

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
18 as an adverse witness unless the charge involves:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

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

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2007.