

HOUSE BILL 1169

E2, D1

11r2828
CF 11r2614

By: **Delegates Conway, Cane, and Otto**
Introduced and read first time: February 16, 2011
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Testimony by Spouses – Central Registry of Records of Refusals**

3 FOR the purpose of requiring the clerk of the court, when making a certain record of
4 the refusal of a spouse to testify in a certain assault trial, to forward a copy of
5 the record to the Administrative Office of the Courts, including certain
6 information; requiring the Administrative Office of the Courts to maintain a
7 certain central registry of records relating to the refusal of the spouse to testify;
8 providing that a certain record is not subject to expungement; limiting the
9 authority to inspect the information contained in the central registry to certain
10 individuals; requiring certain statistical data to be available to certain
11 organizations for certain purposes; prohibiting certain information from being
12 included in certain statistical data; and generally relating to the making of a
13 record of a refusal of a spouse to testify in certain assault trials.

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 9–106
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2010 Supplement)

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

21 **Article – Courts and Judicial Proceedings**

22 9–106.

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

25 (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]:

10 **(I) MAKE** and maintain a record of that refusal, including the
11 name of the spouse refusing to testify; **AND**

12 **(II) FORWARD A COPY OF THE RECORD OF THAT REFUSAL,**
13 **INCLUDING THE DEFENDANT'S NAME, THE SPOUSE'S NAME, THE CASE FILE**
14 **NUMBER, A COPY OF THE CHARGING DOCUMENT, AND THE DATE OF THE TRIAL**
15 **IN WHICH THE SPOUSE REFUSED TO TESTIFY TO THE ADMINISTRATIVE OFFICE**
16 **OF THE COURTS.**

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

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

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

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

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

31 **(5) (I) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL**
32 **MAINTAIN A CENTRAL REGISTRY OF ALL RECORDS OF REFUSAL MADE AND**
33 **FORWARDED UNDER THIS SUBSECTION.**

1 **(II) A RECORD OF REFUSAL MAINTAINED UNDER THIS**
2 **PARAGRAPH:**

3 **1. IS NOT SUBJECT TO EXPUNGEMENT UNDER TITLE**
4 **10, SUBTITLE 1 OF THE CRIMINAL PROCEDURE ARTICLE; AND**

5 **2. SHALL BE AVAILABLE ONLY TO A COURT, A**
6 **STATE’S ATTORNEY’S OFFICE, AND AN ATTORNEY FOR THE DEFENDANT.**

7 **(III) 1. STATISTICAL DATA DERIVED FROM THE CENTRAL**
8 **REGISTRY MAINTAINED UNDER THIS PARAGRAPH SHALL BE AVAILABLE TO AN**
9 **ORGANIZATION THAT CONDUCTS RESEARCH OR PROVIDES SERVICES RELATED**
10 **TO DOMESTIC VIOLENCE.**

11 **2. DATA RELEASED TO AN ORGANIZATION UNDER**
12 **THIS SUBPARAGRAPH:**

13 **A. MAY BE USED ONLY FOR RESEARCH,**
14 **EVALUATION, AND STATISTICAL ANALYSIS; AND**

15 **B. MAY NOT CONTAIN ANY UNIQUE IDENTIFYING**
16 **INFORMATION, INCLUDING NAMES, RECORD NUMBERS, OR CASE FILE NUMBERS.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2011.