

A004-0102

10 AN ACT CONCERNING

20 **Spousal Privilege**

30 FOR the purpose of illuminating spousal privilege to those who are victims of domestic abuse.

40 BY repealing

50 Article - Courts and Judicial Proceedings

60 Section 9 - 106

70 Annotated Code of Maryland

80 (2001 Replacement Volume)

90 SECTION 1. BE IT ENACTED BY THE MARYLAND STUDENT LEGISLATURE: That the
100 Laws of Maryland read as follows:

110 **Article - Courts and Judicial Proceedings**

120 § 9-106.

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

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

160 2) Assault in any degree in which the spouse is a victim ~~if~~

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

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

200 ~~(iii) The spouse refused to testify at the previous trial on the basis of the~~
210 ~~provisions this section.~~

220 (b) Record of assertion; expungement.

230 1) If the spouse of a person on trial for assault in any degree ~~in which the spouse~~
240 ~~was a victim~~ is sworn to testify at the trial and refuses to testify ~~on the basis of the~~
250 ~~provisions of this section~~, the clerk of the court shall make and maintain a record of that
260 refusal, including the name of the spouse refusing to testify.

270 2) When an expungement order is presented to the clerk of the court in a case
280 involving a charge of assault in any degree, the clerk shall check the record to determine
290 whether the defendant's spouse refused to testify ~~on the basis of the provisions of this~~ 300
~~section.~~

290 3) If the record shows such refusal, the clerk shall make and maintain a separate 300
record of the refusal, including the defendant's name, the spouse's name, the case file 310
number, a copy of the charging document, and the date of the trial in which the spouse 320
refused to testify. The separate record specified under paragraph (3) of this subsection: 330
Is not subject to expungement under Article 27, §§ 735 through 741 of the Code; and 340

Shall be available only to the court, a State's Attorney's office, and an attorney for the 350 defendant.

350 Section 2. AND BE IT FURTHER ENACTED, That this act shall take effect on October 1, 2002.

340 MANDATES: Governor Parris Glendening
350 Lt. Kathleen Kennedy Townsend

Sponsor:
Michelle D. Meogrossi
College of Notre Dame of Maryland
4701 N. Charles St.
Box 233
Baltimore, MD 21210
(410) 532 - 1156
Mmeogrossi1@ndm.edu