

9-106.

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

- (1) The abuse of a child under 18; or
- (2) Assault [and battery] IN ANY DEGREE in which the spouse is a victim if:

- (i) The person on trial was previously charged with ASSAULT IN ANY DEGREE OR assault and battery of the spouse;

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

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

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The revision of the assault laws replaces the common law crime of assault and battery with the statutory crimes of assault in the first or second degree. The Committee to revise Article 27 recommends that any degree of assault occurring within a year of any other assault will result in a spouse being compelled to testify. The reference to "assault and battery" is left in paragraph (2)(i) to cover cases arising before the enactment of this revision.

10-916.

(a) (1) In this section the following words have the meanings indicated.

(2) "Battered Spouse Syndrome" means the psychological condition of a victim of repeated physical and psychological abuse by a spouse, former spouse, cohabitant, or former cohabitant which is also recognized in the medical and scientific community as the "Battered Woman's Syndrome".

(3) "Defendant" means an individual charged with:

- (i) First degree murder, second degree murder, manslaughter, [maiming,] or attempt to commit any of these crimes; or

- (ii) Assault [with intent to murder or maim] IN THE FIRST DEGREE.

(b) Notwithstanding evidence that the defendant was the first aggressor, used excessive force, or failed to retreat at the time of the alleged offense, when the defendant raises the issue that the defendant was, at the time of the alleged offense, suffering from the Battered Spouse Syndrome as a result of the past course of conduct of the individual who is the victim of the crime for which the defendant has been charged, the court may admit for the purpose of explaining the defendant's motive or state of mind, or both, at the time of the commission of the alleged offense:

- (1) Evidence of repeated physical and psychological abuse of the defendant perpetrated by an individual who is the victim of a crime for which the defendant has been charged; and

- (2) Expert testimony on the Battered Spouse Syndrome.