

CHAPTER 308

(Senate Bill 161)

AN ACT concerning

Evidence – Assault Trials – Spousal Privilege – Record of Assertion

FOR the purpose of requiring that the clerk of the court make and maintain a separate record of the refusal of certain witnesses to testify in certain assault trials under certain circumstances; requiring the clerk to make and maintain a certain separate record when an expungement order is presented in certain cases; specifying the contents of the record; limiting the availability of the record; providing that the record is not subject to expungement; and generally relating to the privilege of the spouse of a person on trial for certain crimes to refuse to testify.

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section 9-106

Annotated Code of Maryland

(1995 Replacement Volume and 1996 Supplement)

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

Article – Courts and Judicial Proceedings

9-106.

(A) 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 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.

(B) (1) IF THE SPOUSE OF A PERSON ON TRIAL FOR ASSAULT IN ANY DEGREE IN WHICH THE SPOUSE WAS A VICTIM IS SWORN TO TESTIFY AT THE TRIAL AND REFUSES TO TESTIFY ON THE BASIS OF THE PROVISIONS OF THIS SECTION, THE CLERK OF THE COURT SHALL MAKE AND MAINTAIN A SEPARATE RECORD OF THAT REFUSAL, INCLUDING THE NAME OF THE SPOUSE REFUSING TO TESTIFY.

(2) THE RECORD SHALL INCLUDE WHEN AN EXPUNGEMENT ORDER IS PRESENTED TO THE CLERK OF THE COURT IN A CASE INVOLVING A CHARGE OF