

to the wife; provided, that before the trial with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances and financial ability of the defendant, shall have the power to pass an order which shall be subject to change by it from time to time, as the circumstances may require, directing the defendant to pay a certain sum weekly for the space of one year to the wife, and to release the defendant from custody on probation for the space of one year upon his entering into a recognizance in such sum as the court shall direct, with or without sureties. The condition of the recognizance shall be such that if the defendant shall make his personal appearance at the court whenever ordered so to do within the year, and shall further comply with the terms of the order, or of any subsequent modification thereof, then the recognizance shall be void, otherwise of full force and effect. If the court be satisfied by information and due proof under oath, at any time during the year, that the defendant has violated the terms of such order, it may forthwith proceed to the trial of the defendant under the original indictment, or sentence him under the original conviction, as the case may be. In the case of forfeiture of a recognizance and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife.

This section referred to in deciding that a father is primarily liable for support of his infant children, although his wife has been awarded a divorce and custody of the children in a proceeding against him as a non-resident. *Alvey v. Hartwig*, 106 Md. 261.

This section creates two separate and distinct offenses, (1) desertion and (2) non-support, and the indictment properly charges their commission in separate counts. An order of court directing a husband to pay his wife a certain sum in accordance with this section, is not a suspension of sentence and is appealable. *Pritchett v. State*, 140 Md. 311.

The obligation of the father to support his minor children is not affected by a divorce and the custody of the children being given to the mother; estoppel of wife; *res adjudicata*. *Boggs v. Boggs*, 138 Md. 429.

This section referred to in deciding that alimony *pendente lite* would not be allowed where the wife had ample means of her own, and though it is primarily the duty of the father to support infant children. *Hood v. Hood*, 138 Md. 359.

This section referred to in holding an ante-nuptial agreement not a bar to alimony on ground of abandonment. *Walker v. Walker*, 125 Md. 660.

An. Code, sec. 76. 1904, sec. 70. 1904, ch. 44, sec. 47B.

88. If the defendant shall be arrested and brought before a justice of the peace, upon the charge of violating section 87 of this article, such justice shall hear the case, and if he be of the opinion that sufficient facts are proved to substantiate the charge, he shall commit or bail the defendant pending the action of the grand jury, as in other cases, or with the consent of the defendant, may in place of such commitment or bail, pass an order and take a recognizance as provided in section 87. If the defendant shall violate the condition of the recognizance, it may be forfeited, and the justice shall note the forfeiture on the recognizance and deliver it to the clerk of the court having original jurisdiction of the misdemeanor described in section 87. The said forfeited recognizance shall then become a record of said court, and shall have the same effect and may be enforced in the