

be accessory thereto, or who shall without such color of right and against the consent of the parent or parents or lawful guardian or guardians of such child, persuade or entice from the usual place of abode or house of such child, or from the custody and control of the parent or parents, or guardian or guardians of such child, or be accessory thereto, or shall knowingly secrete or harbor such child, or be accessory thereto, with the intent to deprive such parent or parents, guardian or guardians, or any person who may be in lawful possession of such child, of the custody, care and control of such child, shall be guilty of a misdemeanor, and upon conviction shall suffer imprisonment in the penitentiary for a term not exceeding twenty years, in the discretion of the court.

Abortion.

An. Code, 1924, sec. 3. 1912, sec. 3. 1904, sec. 3. 1888, sec. 3. 1868, ch. 179, sec. 2.

3. Any person who shall knowingly advertise, print, publish, distribute or circulate, or knowingly cause to be advertised, printed, published, distributed or circulated, any pamphlet, printed paper, book, newspaper notice, advertisement or reference containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom, or to any place, house, shop, or office, where any poison, drug, mixture, preparation, medicine or noxious thing, or any instrument or means whatever, for the purpose of producing abortion, can be procured, or who shall knowingly sell, or cause to be sold any such poison, drug, mixture, preparation, medicine or noxious thing or instrument of any kind whatever; or from whom any advice, direction, information or knowledge may be obtained for the purpose of causing the miscarriage or abortion of any woman pregnant with child, at any period of her pregnancy, or shall knowingly sell or cause to be sold any medicine, or who shall knowingly use or cause to be used any means whatsoever for that purpose, shall be punished by imprisonment in the penitentiary for not less than three years, or by a fine of not less than five hundred dollars nor more than one thousand dollars, or by both, in the discretion of the court; and in case of fine being imposed, one-half thereof shall be paid to the State of Maryland, and one-half to the school fund of the city or county where the offense was committed; provided, however, that nothing herein contained shall be construed so as to prohibit the supervision and management by a regular practitioner of medicine of all cases of abortion occurring spontaneously, either as the result of accident, constitutional debility, or any other natural cause, or the production of abortion by a regular practitioner of medicine when, after consulting with one or more respectable physicians he shall be satisfied that the fœtus is dead, or that no other method will secure the safety of the mother.

The giving of oral advice or information for the purpose of causing miscarriage or abortion is not criminal under this section. *Larkins v. State*, 163 Md. 372.

The crime of abortion is a misdemeanor at common law when there is no intent to kill, and this section does not change the rule. Causing the death of a woman by means of an abortion is manslaughter and not murder. An indictment held not to be for the statutory offense of abortion but for manslaughter as a consequence of an abortion. In prosecutions for abortion the death of the woman is no part of facts which go to constitute the crime. Dying declarations. *Worthington v. State*, 92 Md. 240.

In an indictment under this section, letters written by traverser to the woman containing directions as to how a certain drug should be taken, and proof by the woman that she took the drug and in other respects followed traverser's instructions, is competent evidence, although traverser was not present when drug was taken and his directions complied with. A conversation between traverser and woman in which she stated that she had complied with his advice but without producing desired effect, is also