

exceeding one hundred dollars, or imprisonment in the Maryland House of Correction, or in Jail, for not more than three years, or both, in the discretion of the Court. The fine may be directed by the Court to be paid in whole or in part 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 three years to the wife, and to release defendant from custody on probation for the space of three years 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 three years, 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 three years, 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.

Desertion may include offense of non-support, but offense of non-support may exist without desertion within the meaning of the statute. *Wald v. Wald*, 161 Md. 498.

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, 1924, sec. 87A. 1931, ch. 448, sec. 87A.

90. The State's Attorney for the City of Baltimore, in addition to the powers and authority heretofore vested in him by law, shall be empowered upon personal knowledge, complaint or information that any person has deserted or failed to provide for the support and maintenance of his wife or minor child or children to require witnesses other than the person accused or to be accused to appear before him, the Deputy State's Attorney or any Assistant State's Attorney, for such examination of witnesses as may be deemed necessary.

Provided the State's Attorney has reason to believe it to be in the interest of the public that an investigation or inquiry be made with a view to the filing of any information to the Criminal Court of Baltimore, such as hereinafter provided.

Secs. 90-94 cited in *Strzegowski v. Strzegowski*, 175 Md. 56.