

The fact that no written order was passed requiring the accused to give bond, the accused, however, being notified by the justice that he must give bond and one being given by his father, though not signed by the accused, does not oust the jurisdiction of the court. Nor does the failure of the justice to keep a copy of the bond affect the jurisdiction of the court. Object of the bond. This section construed in connection with sec. 11. *O'Brien v. State*, 126 Md. 272.

In view of the interpretation put on this section in *O'Brien v. State*, 126 Md. 272, this section does not violate the 14th amendment of the Federal Constitution. *Hamilton v. State*, 127 Md. 313.

As there should be something more than a comma before the words "in default" in this section and also before the words "in case," a period is substituted in both places. *O'Brien v. State*, 126 Md. 273.

As this section directs the justice to transmit a copy of the proceedings, the original affidavit of the mother is not a compliance. *State v. Chaney*, 93 Md. 71.

This section applied. *Root v. State*, 10 G. & J. 376.

Cited but not construed in *State v. Trimble*, 33 Md. 470; *State v. Phelps*, 9 Md. 27. See notes to secs. 1, 2 and 4.

An. Code, 1924, sec. 4. 1912, sec. 4. 1912, ch. 163.

4. At the hearing before said justice of the peace, it shall be his duty to take down and reduce to writing the testimony of the woman making complaint, together with the cross-examination of said woman by the accused, or his attorney, which testimony shall be signed and sworn to by said woman, and he shall transmit the same with the original papers in the case to the Circuit Court of the county or to the Criminal Court of the City of Baltimore, as the case may be, and such testimony shall be admitted in evidence at the trial of the accused person under section 8 of this article, if said accusing witness should die prior to the time of such trial.

Where the papers are taken by the justice and mailed to the clerk of the court, but are lost, the state may prove their contents. History of this article. The justice does not render judgment; the proceeding before him is simply preliminary. When action may be taken. When the documents have been lost, the proper practice is to have copies made and filed. The testimony of the complainant and the cross-examination, if taken down and lost, may be proved by parol. Submission to jury of issues on pleas of jurisdiction held unnecessary; jurisdiction upheld. Evidence. *O'Brien v. State*, 126 Md. 272.

Cited but not construed in *State v. Trimble*, 33 Md. 470.

See notes to secs. 1, 2, 3 and 8.

1939, ch. 182, sec. 4A.

5. Whenever any woman, who has been delivered of or who is pregnant with a bastard child, shall, in writing under oath filed with a State's Attorney (the term State's Attorney as used in this Article includes Deputy State's Attorney or Assistant State's Attorney acting under authority given by the State's Attorney) accuse any person of being the father of said bastard child, the State's Attorney may require witnesses other than the person accused to appear before him for such examination of witnesses as may be deemed in the public interest. After such examination or inquiry the State's Attorney may file an information at any time after but not before the woman shall have been delivered of the child in the Circuit Court of the County or the Criminal Court of Baltimore City, as the case may be, against the accused father charging him with the offense of bastardy.

Nothing in this section, however, shall prevent the State's Attorney, if he see fit, from submitting any such bastardy case to the grand jury at any time after but not before the woman shall have been delivered of the child, as in other criminal cases, for such action as it may deem proper, instead of proceeding by way of information.

This section applied in *Kennard v. State*, Daily Record, Feb. 1, 1940.