

House of Correction until said bond be given, but not exceeding two years. Upon petition of the mother, State's Attorney or either of the sureties, the Court may inquire into said bond at any time, and in its discretion require a new bond.

The validity of the bastardy law has never been questioned, notwithstanding it does not provide for a jury trial. *State v. Glenn*, 54 Md. 604; *Lynn v. State*, 84 Md. 81; *State v. Loden*, 117 Md. 386.

This section set out and explained—if there ever was any question about the constitutionality of the bastardy law, this section removes it. This section is not open to the objection that it provides two different penalties for the same offense. Sentence sustained. *Lynn v. State*, 84 Md. 80.

If the justice renders no judgment and requires no recognizance, the circuit court has no jurisdiction, since it sits as an appellate, and not as an original court. *Cushwa v. State*, 20 Md. 281.

The offense which the law punishes is fornication; meaning thereof. Evidence is admissible to show that the mother had intercourse with other men when in the course of nature the child might have resulted from such intercourse. Declaration of third person; admissibility of other evidence. *Jones v. State*, 132 Md. 143; *Baehr v. State*, 136 Md. 128.

The privilege of the prosecuting witness in bastardy proceedings of not answering questions, is personal to her and not to the traverser. *Burkentine v. State*, 131 Md. 691. This section referred to in deciding that illegitimate children were not entitled to workmen's compensation benefits. *Scott v. Independent Ice Co.*, 135 Md. 348 (decided prior to the act 1920, ch. 456).

The clause of this section with reference to the same proceedings being had "as in other criminal cases," means that there must be a presentment and indictment upon which the trial must proceed as in other criminal cases. *Norwood v. State*, 45 Md. 72.

The procedure under this section being criminal in its nature, must be begun within one year from the birth of the child, which is the consummation of the offense. *Baker v. State*, 21 Md. 426; *Neff v. State*, 57 Md. 391. As to the proceeding under this section being criminal, see *Sheay v. State*, 74 Md. 56; *Plunkard v. State*, 67 Md. 368; *Owens v. State*, 10 Md. 164; *State v. Phelps*, 9 Md. 27.

If the act of fornication was committed in Maryland, it is no defence that the child was born and the mother resides in another state. *Sheay v. State*, 74 Md. 56. *Cf. Owens v. State*, 10 Md. 164.

The indictment should show the mother's residence with that of the child. *Root v. State*, 10 G. & J. 376.

The father cannot relieve himself from a violation of his recognizance by application under the insolvent laws. If the security becomes insufficient, the court may order the father to furnish a new bond. *Oldham v. State*, 5 Gill, 93; *Plunkard v. State*, 67 Md. 368; *State v. Phelps*, 9 Md. 27.

This section is for the benefit of the father, and it is his duty to give the proper recognizance, or if a mistake has been made, to remedy it promptly. *Huyett v. Slick*, 43 Md. 289.

The father may plead in bar that the mother appeared before a justice and declined to disclose the name of the father, and herself gave the requisite security. *State v. Trimble*, 33 Md. 470.

This section does not give court jurisdiction to require new bond in case of insolvency of original bond. *State v. Fleming*, 173 Md. 192.

In bastardy proceeding on account of child born of a married woman, there must be sufficient evidence to rebut presumption of child's legitimacy before mother can testify that accused is father. *Hale v. State*, 175 Md. 319.

Cited but not construed in *Klein v. State*, 151 Md. 494.

Cited in *Lurz v. Lurz*, 170 Md. 431.

See notes to secs. 1, 2, 3 and 4.

1930, ch. 182, sec. 5A.

9. Instead of imposing the punishment for failure to give bond, the Court may, in its discretion and with due regard to the financial ability of the accused person, release such person from custody on probation for the period during which the accused shall be required to make payments, upon his entering into a recognizance in such sum as the Court shall direct, with or without securities. The condition of the recognizance shall be such that if the accused person shall make his personal appearance at the Court whenever ordered to do so within the period during which he shall be required to make such payments, and shall further comply with the terms of the order, or of any subsequent modification thereof, then the