

sanctions for nonsupport of destitute parents and destitute adult children are invoked very seldom by the State's Attorneys. In the only reported appellate decision under the destitute parent statute, the Court of Special Appeals reversed the conviction on the ground that the defendants had insufficient means to support their destitute parent. Hale & Hossler v. State, 44 Md. App. 376 (1979). This State may be the only state that has a criminal penalty for nonsupport of these destitute adult relatives in the absence of a statutory civil obligation to pay support. The General Assembly may wish to reconsider its earlier decisions to retain the criminal penalties (see, e.g., Senate Bill 258, 1980 Session), and consider enacting a civil support statute in place of these penalties.

The Commission to Revise the Annotated Code notes, for consideration by the General Assembly, that stringent and impractical requirements are imposed by §§ 13-107 through 13-109 of this title for the payment of support and the giving of bond. Under § 13-107(c) of this title, an individual must pay support until the individual's destitute parent or destitute adult child has other means of adequate support or dies. Additionally, the individual must give bond, conditioned on making the support payments. Under § 13-108 of this title, on failing to give bond, the court may imprison the individual for 1 year or release the individual on probation for the period during which the support payments are required (i.e., for the remainder of the destitute relative's life or until the relative has other adequate means of support). Recognizance must be given for the probation, on the condition that the individual appear in court when required to do so, and pay support. If the conditions are violated, the defendant may be imprisoned for 1 year on the original failure to give bond.

The relationship between §§ 13-107 through 13-109 of this title and the penalty provision of § 13-102 of this title is unclear. The General Assembly may wish to consider whether it is reasonable to order an individual to pay support and give bond, subject to imprisonment for failure to give bond, if the individual already is serving a sentence on the conviction. The General Assembly may wish to clarify whether these provisions are in addition to or instead of the penalty provisions of § 13-102 of this title.

The General Assembly also may wish to consider whether the court should order an individual to pay support indefinitely, or whether a time limitation should be imposed on the required payment.

The General Assembly also may wish to consider whether the court should imprison an individual who fails to give bond and the nature of the alternative probation for failure to give bond. Since the probation is conditioned on the payment of support, the statute appears to create an indefinite probation for an offense (the failure to give bond) that carries a 1-year maximum penalty. It is not clear whether Article 27, § 641A applies to limit the probation.