

A PERSON MAY NOT PROCURE ANOTHER TO COMMIT PERJURY AS PROHIBITED BY § 9-101 OF THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE MISDEMEANOR OF SUBORNATION OF PERJURY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS.

(C) STATUTE OF LIMITATIONS AND IN BANC REVIEW.

A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5-106(B) OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 438 and, as it related to the penalty for subornation of perjury, § 439.

In subsection (b) of this section, the phrase "is subject to imprisonment" is substituted for the former mandatory phrase "shall be sentenced" more accurately to reflect the discretionary minimum range for imprisonment for a violation.

Also in subsection (b) of this section, the reference to a person who violates this section being guilty "of the misdemeanor" of subornation of perjury is added to state expressly that which was only implied in the former law. At common law, subornation of perjury was treated in the same manner as perjury, a misdemeanor. See *McGarvey v. McGarvey*, 286 Md. 19, 28 (1979); see also, *Garitee v. Bond*, 102 Md. 379, 384 (1905); *Hourie v. State*, 53 Md. App. 62 (1982); *Murray v. State*, 27 Md. App. 404, 408 (1975) (dicta). Also, in this State, any crime that was not considered a felony at common law and has not been declared a felony by statute is considered a misdemeanor. See *State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 354 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

In subsection (c) of this section, the reference to a violation being "subject to § 5-106(b) of the Courts Article" is substituted for the former reference to the violation subjecting the defendant to imprisonment "in the ... penitentiary" for clarity and consistency within this article. See General Revisor's Note to article.

Defined term: "Person" § 1-101

9-103. CHARGING DOCUMENT.

AN INDICTMENT, INFORMATION, OR WARRANT FOR PERJURY IS SUFFICIENT IF IT SUBSTANTIALLY STATES: "(NAME OF DEFENDANT) ON (DATE) IN (COUNTY), ON EXAMINATION AS A WITNESS, DULY SWORN TO TESTIFY IN (PROCEEDING) BY (COURT OR OTHER PERSON ADMINISTERING OATH) WITH AUTHORITY TO ADMINISTER THE OATH, UNLAWFULLY AND FALSELY SWORE (FACTS), THE MATTERS SO SWORN WERE MATERIAL, AND THE TESTIMONY OF (NAME OF DEFENDANT) WAS WILLFULLY AND