Pope

♦ Issues:
  
  – 1. As a matter of law, did the D. have responsibility of the supervision of the child under these circumstances, which would make her liable for child abuse?
  
  – 2. Is misprision of felony an offense in Maryland?
Rule: Any parent, adoptive parent or other person who has the permanent or temporary care or custody or responsibility for the supervision of a minor child under the age of 18 years who causes abuse to such minor child shall be guilty of a felony….Article 27, Section 35A

- What is meant by cause abuse?
  - omissions can constitute abuse (Fabritz)
- Is D. other person who has “responsibility for the supervision of the child? 
  - No
§ 3-601. Child abuse

Prohibited

(b)(1) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause abuse to the minor.

(2) A household member or family member may not cause abuse to a minor.
§ 3-601. Child abuse

Definitions

(a)(1) In this section the following words have the meanings indicated…..
(3) “Family member” means a relative of a minor by blood, adoption, or marriage.
(4) “Household member” means a person who lives with or is a regular presence in a home of a minor at the time of the alleged abuse.
Legal Duty to Act

♦ Statutes (i.e. physician reporting, filing taxes)
♦ Status relationship (i.e. parent/child, husband/wife, master/apprentice, ship’s master/crew & passengers, innkeeper/inebriated customers)
♦ Contracts
♦ Torts
  – Voluntary assumption of care to exclusion of others.
Model Penal Code
2.01(3)

Liability for the commission of an offense may not be based on an omission unaccompanied by action unless:

(a) the omission is expressly made sufficient by the law defining the offense; or
(b) a duty to perform the omitted act is otherwise imposed by law.

MPC follows the common law doctrine
People v. Beardsley

The record in this case discloses that the deceased was a woman past 30 years of age. She had been twice married. She was accustomed to visiting saloons and to the use of intoxicants. She previously had made assignations with this man in Detroit at least twice. There is no evidence or claim from this record that any duress, fraud, or deceit had been practiced upon her. On the contrary, it appears that she went upon this carouse with respondent voluntarily, and so continued to remain with him. Her entire conduct indicates that she had ample experience in such affairs.
Legal Duty to Act

♦ Statutes (i.e. physician reporting, filing taxes)
♦ Status relationship (i.e. parent/child, husband/wife, master/apprentice, ship’s master/crew & passengers, innkeeper/inebriated customers)
♦ Contracts
♦ Torts
  - Voluntary assumption of care to exclusion of others.
  - Creation of Risk
Tomorrow’s Class
Note 2, p. 212

♦ Identify the material elements of each crime (nature of conduct, attendant circumstances and result),

♦ Determine the mens rea required by the definition,

♦ Determine the mens rea that would be required if the Model Penal Code’s general principles of interpretation were applicable. [2.02(2) – (4)]