

MASON'S MINNESOTA STATUTES

1927

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EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED
BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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of the state within the meaning of the workmen's compensation laws of this state and entitled to the benefit of all the provisions of said laws applicable to state employes. ('27, c. 224, § 16)

9950-21. Construction of law—It is hereby declared

that this act is necessary for the public safety, peace and welfare, is remedial in nature, shall be construed liberally, and that in case any part thereof shall be declared unconstitutional it shall not in any way affect any other part hereof. ('27, c. 224, § 17)

CHAPTER 94

RIGHTS OF ACCUSED

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9951. To know ground of arrest—Every person arrested by virtue of process, or taken into custody by an officer, has a right to know from such officer the true ground of his arrest; and every such officer who shall refuse to answer relative thereto, or shall answer untruly, or neglect on request to exhibit to him, or to any person acting in his behalf, the precept by virtue of which such arrest is made, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year. (4783) [8507]

9952. Presumption of innocence—Conviction of lowest degree, when—Every defendant in a criminal action is presumed innocent until the contrary is proved, and in case of a reasonable doubt is entitled to acquittal; and when an offense has been proved against him, and there exists a reasonable doubt as to which of two or more degrees he is guilty, he shall be convicted only of the lowest. (4784) [8508]

1. Burden of proof on state—The state has the burden of proving beyond a reasonable doubt every essential element of the offence charged (10-407, 325; 22-514; 90-7, 95+578). The doubt entitling to acquittal must result from a consideration of all the evidence; each evidentiary fact need not be proved beyond a reasonable doubt (29-193, 12+524; 37-493, 35+493; 90-183, 96+330). See 121-405, 141+483.

2. Definition of reasonable doubt—It is not desirable for the court to attempt an explanation of the term "reasonable doubt" unless requested by the jury. It is impossible to make the meaning of the expression more clear by any circumlocution (14-105, 75; 38-438, 38+355). The following definition, if any, should be given: "Proof beyond a reasonable doubt is such as would impress the judgment of ordinarily prudent men with a conviction upon which they would act without hesitation in their own most important affairs and concerns of life" (56-226, 239, 55+652, 57+1065). The court is not required to explain to the jury the reason for the rule (37-493, 35+373). Instructions defining reasonable doubt considered (10-407, 325; 12-293, 191; 14-105, 75; 18-208, 191; 37-493, 35+373; 38-438, 38+355; 72-296, 75+235; 90-183, 96+330; 93-393, 101+499).

A definition of "reasonable doubt," which states it to be "a doubt for which a reasonable, sensible person could give a good reason, which reason must be based

upon the evidence or want of evidence; such doubt as a sensible person would act upon or decline to act upon in his own affairs," is held prejudicial. 210+12.

3. Doubt as to degree of crime—If the jury have a reasonable doubt whether the accused is guilty of a higher or lower degree of crime they must find him guilty of the latter (4-368, 277).

4. To what applicable—The rule requiring proof beyond a reasonable doubt is applicable to all grades of crime (10-407, 325), and to proceedings for criminal contempt (65-146, 67+796). It is not applicable to bastardy proceedings (29-357, 13+153), or to civil actions, although the issues involve a charge of crime (22-206; 29-107, 12+154; 29-357, 13+153).

5. Requests—Defendant not having asked for an instruction upon the presumption of innocence cannot now complain that none was given, (130-34, 153+271). See 123-128, 143+119; 130-34, 153+271; 130-347, 153+845, 135-479, 160+486.

9953. Conviction—When had—No person indicted for any offense shall be convicted thereof, unless by admitting the truth of the charge in his demurrer or plea, by confession in open court, or by verdict of a jury, accepted and recorded by the court. (4785) [8509]

9954. Dismissal, when—Whenever any person has been held to answer for a public offense, if an indictment is not found against him at the next term of the court to which he is held, said court shall order the prosecution to be dismissed, unless good cause to the contrary be shown. If indicted, and trial is not postponed upon his own application, unless tried at the next term of the court in which it is triable, the indictment shall be dismissed, unless good cause to the contrary be shown. (4786) [8510]

Dismissal on failure to prosecute seasonably (66-294, 69+25). Cited as to when a prosecution is pending (18-398, 359). Cited (109-437, 124+13). Cited (127-505, 150+171; 147-272, 180+99; 189+408; 191+607)

9955. Continuance—Effect—Bail—Whenever the defendant is not indicted or tried as herein provided, and good reasons therefor are shown, the court may order the action continued from term to term, and in the meantime commit the defendant, or, in case the offense is bailable, admit him to bail, on his furnishing satisfactory sureties. Whenever the action is dismissed, the defendant shall be discharged from custody, or, if admitted to bail, his bail shall be exonerated, and, if money has been deposited for bail, that shall be refunded. (4787) [8511]

Cited (109-437, 124+13). Cited (147-272, 180+99).

9956. Defendant entitled to blank subpoenas—The clerk of the court in which any indictment is to be tried shall at all times, upon application of defendant, and without charge, issue as many blank subpoenas, under the seal of the court, and subscribed by him as clerk, for witnesses in the state, as are required by such defendant. (4788) [8512]

9957. Counsel for defense; public defender in certain counties—Whenever a defendant shall be arraigned upon indictment or information for any felony or gross misdemeanor and shall request the court to

appoint counsel to assist in his defense, and satisfied it by his own oath or other required proof that he is unable, by reason of poverty, to procure counsel, such court shall appoint counsel, not exceeding two for such defendant to be paid, upon his order, by the county in which the indictment was found. Compensation, not exceeding ten (\$10.00) dollars per day for each counsel, for the number of days he is actually employed in the court shall be fixed by the court in each case; provided that in counties now or hereafter having a population of 300,000 or over the judges of the district court of such county may by a unanimous vote, appoint an attorney at law, a member of the bar in such county to appear for and defend all persons charged with a felony or gross misdemeanor in such county who are unable by reason of poverty to employ counsel. (R. L. '05 § 4789, G. S. '13 § 8513, amended '17 c. 496 § 1)

90-348, 97+101. Compensation order under this section in favor of an attorney for defending an indigent accused of crime, is not exempt from garnishment as being fees of a state or public officer (126-264, 148+66). 165-423, 206+952.

9958. Duties of public defender—The attorney so appointed as aforesaid shall be known as the public defender of county. He shall appear for and defend all persons charged with any felony or gross misdemeanor whenever it shall appear to the court that the person accused is unable by reason of poverty to procure counsel. ('17 c. 496 § 2)

9959. To appear before board of pardons and parole—Whenever the committing judge, or the judge in charge of the criminal court, shall deem it advisable he may by order direct the said public defender to appear before the board of pardons, or parole for and on behalf of any applicant for pardon or parole who was committed from such county. ('17 c. 496 § 3)

9960. Compensation to be fixed by judges—He shall receive compensation for his services as the judges of the district court shall fix, said compensation to be paid by the county in the same manner and at the same time as the salary of other county officials. ('17 c. 496 § 4)

9961. To be appointed for four years—The term of office of the public defender shall be four (4) years, but he may be re-appointed as often as the majority of the judges of the district court shall concur in such re-appointment. ('17 c. 496 § 5)

9962. Given power to appoint and remove assistants—He shall have the power to appoint and remove his assistants and number and compensation of which shall be fixed by the judges of the district court, by an order filed with the county auditor. Their compensation shall be paid by the county in the same manner and at the same time as the salaries of other county officials. ('17 c. 496 § 6)

9963. To appear for criminals who have plead guilty on information—The public defender shall also appear for and on behalf of criminals who shall have pleaded guilty on information as provided in section 9162, General Statutes of 1913, in counties now or hereafter having a population of 300,000 or over. ('17 c. 496 § 7)

Explanatory note—For G. S. 1913, § 9162, see § 10667, herein.

9963-1. Public defender in counties with more than 240,000 and less than 300,000 population—Appointment—That in counties now or hereafter having a popula-

tion of more than 240,000 and less than 300,000 the judges of the district court of such county may appoint an attorney at law, a member of the bar in such county, to appear for and defend all persons charged with a felony or gross misdemeanor in such county, who are unable by reason of poverty to employ counsel. ('25, c. 29, § 1)

Explanatory note—Section 7 of Laws 1925, c. 29 repeals all inconsistent acts or parts of acts.

9963-2. Same—Duties—The attorney so appointed as aforesaid shall be known as the Public Defender. He shall appear for and defend all persons charged with a felony or gross misdemeanor whenever it shall appear to the court that the person accused is unable by reason of poverty to procure counsel. ('25, c. 29, § 2)

9963-3. Same—Appearance before board of pardons—Whenever the committing judge or the judge in charge of the criminal court, shall deem it advisable he may, by order, direct the said Public Defender to appear before the Board of Pardons for and on behalf of any applicant for pardon who was committed from such county. ('25, c. 29, § 3)

9963-4. Same—Compensation—He shall receive such compensation for his services as the judges of the district court shall fix, in a sum not to exceed \$2,400.00, said compensation to be paid by the county in the same manner and at the same time as the salary of other county officials. ('25, c. 29, § 4; amended '27, c. 155)

9963-5. Same—Term of office—The term of office of the Public Defender shall be two years. ('25, c. 29, § 5; amended '27, c. 155)

9963-6. Same—Appearance for persons pleading guilty—The Public Defender shall also appear for and on behalf of criminals who shall have pleaded guilty on information as provided in Section 10667 General Statutes of Minnesota, 1923. ('25, c. 29, § 6)

9964. Depositions for accused—Upon cause shown to the court in which any criminal action is pending, a judge thereof may by order allow depositions of witnesses on behalf of the prisoner to be taken in the same manner and in like cases where they may be taken in civil actions; and the depositions so taken may be used upon the trial of the defendant, in his behalf, as depositions are now allowed and used in civil actions; but the expense attending the taking and return thereof shall be paid by the defendant, except when otherwise directed by the court, by order duly entered upon its minutes. (4790) [8514]

13-341, 315.

9965. Acquittal on part of charge—Whenever any person indicted for felony is acquitted by verdict of part of the offense charged and convicted on the residue, such verdict may be received and recorded by the court, and thereupon he shall be adjudged guilty of the offense, if any, which appears to be substantially charged by the residue of the indictment, and sentenced accordingly. (4791) [8515]

9966. Acquittal—When a bar—Whenever a defendant shall be acquitted or convicted upon an indictment for a crime consisting of different degrees, he cannot thereafter be indicted or tried for the same crime in any other degree, nor for an attempt to commit the crime so charged, or any degree thereof. (4792) [8516]

1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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where the employer has made a proper report in compliance herewith. (Act Apr. 13, 1935, c. 165, §3.)

9950-25. Violation a gross misdemeanor.—Any person who violates any provision of this act is guilty of a gross misdemeanor. (Act Apr. 13, 1935, c. 165, §4.)

BROADCASTING STATIONS

9950-41. Radio stations may be installed.—The commission of administration and finance is hereby authorized to purchase, secure the necessary air privilege, lease or otherwise acquire, and install one or more radio broadcasting stations to be used for police purposes only, under the direction of the bureau of criminal apprehension. (Act Apr. 17, 1935, c. 195, §1.)

The 23 employees authorized by §9950-7 includes those necessary to operate the radio broadcasting station under Laws 1935, c. 195, §1. Op. Atty. Gen. (985h), June 7, 1935.

9950-42. Bureau to maintain station.—The bureau is hereby charged with the maintenance, operation and conduct of all radio broadcasting stations established under the provisions of this act. (Act Apr. 17, 1935, c. 195, §2.)

9950-43. Police cars to have radios.—When the broadcasting station or stations authorized by this act have been established and are ready for operation, the bureau shall notify immediately the board of county commissioners in each county of the state that such radio service has been established; and forthwith the board shall provide for the purchase and installation in the office of the sheriff and at such other places within each county as it may direct, and in at least one motor vehicle used by the sheriff in the conduct of his office, a locked-in radio receiving set of the character prescribed by the bureau for use in connection with the broadcasting station or stations so established. (Act Apr. 17, 1935, c. 195, §3; Jan. 27, 1936, Ex. Ses., c. 104, §1.)

Requirement that county boards install radio receiving sets is mandatory. Op. Atty. Gen. (390a-10), Oct. 16, 1935.

9950-44. Receiving stations in cities and villages.—The council of each city in the state shall, and the council of each village in the state may, purchase, install and maintain in such place as said council may determine at least one such locked-in radio receiving set as may be prescribed by the bureau for use in law enforcement and police work in such city or village in connection with the broadcasting system thereby established. (Act Apr. 17, 1935, c. 195, §4; Jan. 27, 1936, Ex. Ses., c. 104, §2.)

Requirement that city councils install radio receiving sets is mandatory. Op. Atty. Gen. (390a-10), Oct. 16, 1935.

9950-45. Commission to supply broadcasting sets.—The commission shall purchase and supply the bureau of criminal apprehension with such locked-in radio receiving sets as are deemed necessary by the superintendent. (Act Apr. 17, 1935, c. 195, §5; Jan. 27, 1936, Ex. Ses., c. 104, §3.)

Receiving sets must be purchased and paid for by municipality. Op. Atty. Gen. (985j), Nov. 14, 1935.

9950-46. Bureau to broadcast criminal information.—It shall be the duty of the bureau to broadcast all police dispatches and reports submitted which in the opinion of the superintendent shall have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime and the maintenance of peace and order throughout the state. Every sheriff, peace officer or other person employing a radio receiving set under the provisions of this act shall make report to the bureau at such times and containing such information as the superintendent shall direct. (Act Apr. 17, 1935, c. 195, §6.)

9950-47. Telephone and telegraph companies to give priority to messages.—Every telegraph and telephone company operating in the state shall give priority to all messages or calls directed to the broadcasting station or stations established under this act. (Act Apr. 17, 1935, c. 195, §7.)

9950-48. Permission for short wave sets must be secured.—No person other than peace officers within the state and the members of the state highway patrol shall equip any motor vehicle with a short wave length radio receiving set or use the same in such motor vehicle without first obtaining permission to do so from the superintendent of the bureau upon such form of application as he may prescribe. (Act Apr. 17, 1935, c. 195, §8.)

9950-49. Appropriation.—There is hereby appropriated out of any money in the treasury not otherwise appropriated \$25,000.00 for the fiscal year ending July 1, 1936, and \$12,500.00 for the fiscal year ending July 1, 1937, or so much thereof as may be necessary to carry out the provisions of this act. (Act Apr. 17, 1935, c. 195, §9.)

9950-50. Violations—Penalties.—Any telegraph or telephone operator who shall fail to give priority to police messages or calls as provided herein; any person who installs or uses a short wave length radio receiving set in any motor vehicle contrary to the provisions of this act; and any person who wilfully makes any false, misleading or unfounded report to any broadcasting station established hereunder for the purpose of interfering with the operation thereof or with the intention of misleading any officer of this state shall be guilty of a misdemeanor. (Act Apr. 17, 1935, c. 195, §10.)

CHAPTER 94

Rights of Accused

9951. To know grounds of arrest.

Constable arresting person without warrant must take him before a magistrate without delay. Op. Atty. Gen., Feb. 28, 1933.

General rules stated for arrests with and without warrants and force that may be used, together with rights as to breaking into buildings to make arrests. Op. Atty. Gen., Mar. 19, 1934.

Insanity as defense—tests for determining criminal responsibility. 17MinnLawRev630.

9953. Conviction—When had.

A "confession in open court" is a formal admission that the specific crime or one included within the indictment was committed. State v. O., 182M48, 233NW590. See Dun. Dig. 2462.

9954. Dismissal, when.

"Good cause" means a substantial reason, one that affords a legal excuse. 173M153, 216NW787.

Defendant's silence, in the face of numerous continuances and long delay, waives right to a speedy trial. 173M153, 216NW787.

9957. Counsel for defense; public defender in certain counties.

Attorney is only entitled to compensation for days he is actually in court regardless of service out of court in preparation for trial. Op. Atty. Gen., June 14, 1933.

9966. Acquittal—When a bar.

One acquitted of charge of rape where age of female is not alleged in indictment may again be tried for same act on same facts under an indictment charging carnal knowledge and abuse of a female child under eighteen years of age. State v. Winger, 204M164, 282NW 819. See Dun. Dig. 2425.