

(2) If the value of the property received, bought or concealed is less than ~~\$100~~ \$150, to punishment as a misdemeanor.

Sec. 2. Minnesota Statutes 1978, Section 609.53, Subdivision 2, is amended to read:

Subd. 2. Any person who receives, buys or conceals any stolen property or property obtained by robbery, ~~believing~~ having reason to believe the same to be so stolen or obtained by robbery, may be sentenced to punishment as a misdemeanor.

Sec. 3. This act is effective August 1, 1979 and applies to all offenses committed on or after that date and to all persons convicted of a crime committed on or after that date.

Approved May 29, 1979.

CHAPTER 233—S.F.No.130

An act relating to courts; criminal procedure; conforming certain statutory provisions to the rules of criminal procedure, and eliminating certain other statutory provisions which have been superseded by the rules; amending Minnesota Statutes 1978, Sections 169.89, Subdivision 2; 357.32; 484.30; 487.25, Subdivisions 1 and 2; 487.28; 487.29; 487.40, Subdivisions 1 and 2; 488A.08; 488A.10, Subdivisions 1 and 2; 488A.25; 488A.27, Subdivisions 1, 2, 3, 4, and 5; 542.16; 546.11; 546.12; 609.115, Subdivisions 1 and 4; 611.06; 627.01; 628.01; 628.02; 628.18; 628.54; 628.57; 628.63; 628.68; 629.47; 629.48; 629.49; 629.58; 629.61; 629.64; 630.18; 631.05; and Chapter 388, by adding a section; repealing Minnesota Statutes 1978, Sections 388.05; 487.25, Subdivisions 3, 4, 5, and 8; 488A.10, Subdivisions 3, 4, 5, and 9; 488A.27, Subdivision 9; 611.04; 611.08; 627.03 to 627.10; 627.13; 627.14; 628.03 to 628.08; 628.11; 628.14; 628.19; 628.29 to 628.33; 628.55; 628.58; 628.59; 628.64; 629.42; 629.43; 629.46; 629.50 to 629.52; 629.57; 630.01 to 630.11; 630.13 to 630.16; 630.19 to 630.30; 630.34; 631.01; 631.015; 631.03; 631.08; 631.10; 631.11; 631.16; 631.18; 631.19; 631.23 to 631.32; 631.34; 631.35; 631.37 to 631.39; 632.01 to 632.13.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1978, Section 169.89, Subdivision 2, is amended to read:

Subd. 2. **PENALTY; JURY TRIAL.** A person charged with a petty misdemeanor ~~shall~~ is not be entitled to a jury trial but shall be tried by a judge without a jury. If convicted, he is not subject to imprisonment but shall be punished by a fine of not more than \$100.

Sec. 2. Minnesota Statutes 1978, Section 357.32, is amended to read:

357.32 WITNESS IN CRIMINAL CASES; WHEN AND HOW PAID. When it ~~shall appear~~ appears that any witness subpoenaed or required to appear on behalf of the state has come from another state or country or is ~~poor~~ indigent, the court may, by order

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upon the minutes, direct the county treasurer to pay ~~such~~ the witness a reasonable sum for expenses. When a prosecution in the name of the state fails, or the defendant proves insolvent, escapes, or is unable to pay the fees when convicted, ~~the same they~~ shall be paid out of the county treasury, unless otherwise ordered by the court. The ~~attorney general or county attorney in each county clerk of court upon request of the county attorney or the attorney general~~ may issue subpoenas and compel the attendance of witnesses in behalf of the state or county without payment of fees in advance; and, in criminal cases, the witnesses for the defendant shall also be compelled to attend without payment of fees in advance, and failure to attend after being served with a subpoena shall subject any witness to be proceeded against in the same manner as provided by law in other cases where payment of fees is required to be paid in advance. The clerk of any court in which a witness has attended ~~in on~~ behalf of the state in a civil action shall give ~~such~~ the witness a certificate of attendance and travel, which ~~shall entitle~~ entitles him to receive the amount from the county treasurer.

Sec. 3. Minnesota Statutes 1978, Chapter 388, is amended by adding a section to read:

[388.051] DUTIES. It is the duty of the county attorney to:

(a) Appear in all cases in which the county is a party;

(b) Give opinions and advice, upon the request of the county board or any county officer, upon all matters in which the county is or may be interested, or in relation to the official duties of the board or officer;

(c) Prosecute felonies, including the drawing of indictments found by the grand jury, gross misdemeanors and, to the extent prescribed by law, violations of misdemeanors, municipal ordinances, charter provisions and rules;

(d) Attend before the grand jury, give them legal advice and examine witnesses in their presence;

(e) Request the clerk of court to issue subpoenas to bring witnesses before the grand jury or any judge or judicial officer before whom he is conducting a criminal hearing;

(f) Attend any inquest at the request of the coroner; and

(g) Appear, when requested by the attorney general, for the state in any case instituted by the attorney general in his county or before the United States land office in case of application to preempt or locate any public lands claimed by the state and assist in the preparation and trial.

Sec. 4. Minnesota Statutes 1978, Section 484.30, is amended to read:

484.30 ADJOURNED AND SPECIAL TERMS. The judges of each district may adjourn court from time to time during any term thereof, and may appoint special terms

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for the trial of issues of law and fact, and, when necessary, direct ~~grand or~~ petit juries to be drawn therefor. Three weeks' published notice of every ~~such~~ special term shall be given in the county wherein it is to be held. They may also appoint special terms for the hearing of all matters except issues of fact, the order for which shall be filed with the clerk, and a copy posted in his office for three weeks prior to ~~such~~ the term.

Sec. 5. Minnesota Statutes 1978, Section 487.25, Subdivision 1, is amended to read:

487.25 PLEADING, PRACTICE, PROCEDURE AND FORMS IN CRIMINAL PROCEEDINGS. Subdivision 1. **GENERAL.** Except as otherwise provided in sections 487.01 to 487.39 ~~but~~ subject to the provisions of section 480.059, pleading, practice, procedure and forms in actions or proceedings charging violation of a criminal law or a municipal ordinance, charter provision ; ~~or rule or regulation~~ are governed by the law applicable in a like action or proceeding in the district court for the county in which the alleged violation occurred or by statutes which govern in courts of justices of the peace in the absence of applicable law governing in the district court rules of criminal procedure .

Sec. 6. Minnesota Statutes 1978, Section 487.25, Subdivision 2, is amended to read:

Subd. 2. **COURT RULES.** The court may adopt rules governing pleading, practice, procedure and forms in actions or proceedings charging a violation of a criminal law or a municipal ordinance, charter provision ; ~~or rule or regulation which are~~ . The rules shall be consistent with the rules of criminal procedure, the provisions of sections 487.01 to 487.39 ~~or and~~ any other statute of this state.

Sec. 7. Minnesota Statutes 1978, Section 488A.10, Subdivision 1, is amended to read:

488A.10 PLEADING, PRACTICE, PROCEDURE, AND FORMS IN CRIMINAL PROCEEDINGS. Subdivision 1. **GENERAL.** ~~Save~~ Except as otherwise provided in this chapter ~~but~~ subject to the provisions of section 480.059, pleading, practice, procedure and forms in actions or proceedings charging violation of a criminal law or a municipal ordinance, charter provision ; ~~or rule or regulation~~ are governed by the statutes and common law rules which govern in a similar action or proceeding in the district court of Hennepin county (other than those applying peculiarly to felony or gross misdemeanor charges) or by statutes which govern in county courts in chapter 487 in the absence of statutes or common law rules governing in said district court rules of criminal procedure .

Sec. 8. Minnesota Statutes 1978, Section 488A.10, Subdivision 2, is amended to read:

Subd. 2. **COURT RULES.** A majority of the judges may adopt rules governing pleading, practice, procedure and forms in actions or proceedings, charging violation of a criminal law or a municipal ordinance, charter provision ; ~~or rule or regulation which are not inconsistent~~ . The rules shall be consistent with the rules of criminal procedure, the provisions of this ~~act or chapter and~~ any other statute of this state.

Sec. 9. Minnesota Statutes 1978, Section 488A.27, Subdivision 1, is amended to

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read:

488A.27 PLEADING, PRACTICE, PROCEDURE, AND FORMS IN CRIMINAL PROCEEDINGS. Subdivision 1. **GENERAL.** ~~Save~~ Except as otherwise provided in this chapter but subject to the provisions of section 480.059, pleading, practice, procedure and forms in actions or proceedings charging violation of a statute, ordinance, charter provision; or rule or regulation shall be governed by the statutes and common law rules which govern in a similar action or proceeding in the district court (other than those applying peculiarly to felony or gross misdemeanor charges) or by statutes which govern in county courts in chapter 487 in the absence of statutes or common law rules governing in district court rules of criminal procedure.

Sec. 10. Minnesota Statutes 1978, Section 488A.27, Subdivision 2, is amended to read:

Subd. 2. **COURT RULES.** A majority of the judges may adopt rules governing pleading, practice, procedure and forms in actions or proceedings charging violation of a statute, ordinance, charter provision; or rule or regulation which are not inconsistent. The rules shall be consistent with the rules of criminal procedure, the provisions of this act or chapter and any other statute of this state.

Sec. 11. Minnesota Statutes 1978, Section 488A.27, Subdivision 3, is amended to read:

Subd. 3. **COMPLAINTS.** Complaints charging violation of a statute, ordinance, charter provision, rule or regulation shall be sworn to before any judge of the court and such complaints and warrants relating to such complaints shall be filed with the administrator. ~~Provided, however, the administrator or other employees of the court may also perform such duties when the offense alleged to have been committed is a violation of a petty misdemeanor law of this state or of a municipal ordinance which is punishable, upon conviction, by a sentence to the payment of a fine only governed by Rule 2 of the rules of criminal procedure. The administrator or other employees of the court shall perform the duties relating to complaints authorized to be performed by the clerk or deputy clerk of court pursuant to Rule 2 of the rules of criminal procedure.~~

Sec. 12. Minnesota Statutes 1978, Section 488A.27, Subdivision 4, is amended to read:

Subd. 4. **TAB CHARGES.** ~~When a person charged with violating a statute, ordinance, charter provision, rule or regulation is brought or voluntarily appears before the court without process, the administrator shall enter upon the records a brief statement of the offense charged. This brief statement stands in place of a complaint, but if any judge so orders, a formal complaint shall be made and filed. Tab charges are governed by Rule 4 of the rules of criminal procedure. The administrator shall perform the duties relating to tab charges authorized to be performed by the clerk of court pursuant to Rule 4 of the rules of criminal procedure.~~

Sec. 13. Minnesota Statutes 1978, Section 488A.27, Subdivision 5, is amended to
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read:

Subd. 5. **PLEAS.** The plea of the defendant shall be "guilty" or "not guilty." In cases of a failure to plead, the administrator shall enter a plea of "not guilty." Former acquittal or conviction for the same offense may be proved under a plea of "not guilty." Pleas are governed by Rule 14 of the rules of criminal procedure. The administrator shall perform the duties relating to pleas authorized to be performed by the clerk of court pursuant to Rule 14.03 of the rules of criminal procedure.

Sec. 14. Minnesota Statutes 1978, Section 487.28, is amended to read:

487.28 **MISDEMEANOR VIOLATIONS BUREAU.** Subdivision 1. **ESTABLISHMENT.** The county court may establish ~~traffic and ordinance~~ misdemeanor violation bureaus, consistent with Rule 23 of the rules of criminal procedure, at the places it determines.

Subd. 2. **SUPERVISION.** (a) The judge shall supervise and the clerk shall operate the ~~traffic misdemeanor~~ violation bureaus in accordance with Rule 23 of the rules of criminal procedure. The clerk shall assign one or more deputy clerks to discharge and perform the duties of the bureaus.

(b) The court shall issue rules governing the duties and operation of the bureaus. These rules shall specify the violations for which fines may be paid to the bureaus without appearance before a judge and shall set the fine or bail for each violation.

(c) The traffic violations bureaus shall process all traffic tags; accept all fines payable on traffic tags at the bureaus pursuant to the court's rules; set dates for arraignment on traffic tag charges to be heard in court; accept bail; keep proper records and accounts and perform other and further duties as the court prescribes.

Sec. 15. Minnesota Statutes 1978, Section 487.29, is amended to read:

487.29 **MISDEMEANOR OFFENSES.** Subdivision 1. The term "traffic tag" means the uniform traffic ticket specified in section 169.99 served upon a person charged with the violation of a traffic law or municipal ordinance, charter provision, rule or regulation or affixed conspicuously to a motor vehicle operated, parked or standing in violation thereof, which requires appearance before a court at a specified time or before a traffic violations bureau thereof without a specified time.

Subd. 2. A person who receives a traffic tag misdemeanor citation shall proceed as follows:

(a) If a fine for the violation may be paid at the bureau without appearance before a judge, the person charged may pay the fine in person or by mail to the bureau within the time specified. The payment of the fine shall be deemed to be the entry of a plea of guilty to the violation charged and the plea of guilty and waiver on the reverse side of the traffic tag misdemeanor citation shall be signed by the person charged.

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(b) When a fine is not so paid, the person charged must appear before the court at the time specified in the ~~traffic tag citation~~ . If appearance before a ~~traffic violation misdemeanor~~ bureau is designated in the ~~tag citation~~ , the person charged must appear within the time specified in the ~~tag citation~~ and arrange a date for arraignment in the county court.

Sec. 16. Minnesota Statutes 1978, Section 487.40, Subdivision 1, is amended to read:

487.40 NOTICE TO REMOVE. Subdivision 1. INTEREST OR BIAS OF JUDGE. No judge shall sit in any cause ; ~~except to hear a motion to change the venue~~; if he be interested in its determination, or if he might be excluded for bias from acting therein as a juror . ~~If he be the only judge of the court or district, he shall grant a change of venue when, upon a motion therefor, his interest or bias shall be made to appear, unless before the motion is heard the governor shall have assigned another judge to try such cause. This sole judge may order the venue changed upon his own motion when he deems it improper to sit in the cause.~~

Sec. 17. Minnesota Statutes 1978, Section 487.40, Subdivision 2, is amended to read:

Subd. 2. INITIAL AND SUBSEQUENT DISQUALIFICATION. (a) Any party or his attorney, to a cause pending in a court, within one day after it is ascertained which judge is to preside at the trial or hearing thereof, or at the hearing of any motion ; ~~or order to show cause, or argument on demurrer~~; may make and file with the clerk of the court in which the action is pending and serve on the opposite party a notice to remove ~~and~~ . Thereupon , without any further act or proof, ~~secure some other judge of the same or another district the chief judge of the judicial district shall assign any other judge of any court within the district~~ to preside at the trial of the cause or the hearing of the motion ; ~~demurrer~~; or order to show cause, and the cause shall be continued on the calendar, until ~~another the assigned~~ judge can be present. In criminal actions the ~~affidavit notice to remove~~ shall be made and filed with the clerk by the defendant, or his attorney, not less than two days before the expiration of the time allowed him by law to prepare for trial and in any of the cases the presiding judge shall be incapacitated to try the cause. In criminal cases, the ~~chief judge~~ for the purpose of securing a speedy trial, may in his discretion change the place of trial to another county.

(b) After a litigant has once disqualified a presiding judge as a matter of right under this subdivision, he may disqualify the substitute judge, but, only by making an affirmative showing of prejudice. A showing that the judge might be excluded for bias from acting as a juror in the matter constitutes an affirmative showing of prejudice. If a litigant makes an affirmative showing of prejudice against a substitute judge, the chief judge of the judicial district shall assign any other judge of any court within the district to hear the cause.

Sec. 18. Minnesota Statutes 1978, Section 542.16, is amended to read:

542.16 NOTICE TO REMOVE. Subdivision 1. INITIAL DISQUALIFICATION.
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Any party, or his attorney, to a cause pending in a district court, within one day after it is ascertained which judge is to preside at the trial or hearing thereof, or at the hearing of any motion ; ~~or order to show cause, or argument on demurrer,~~ may make and file with the clerk of the court in which the action is pending and serve on the opposite party a notice to remove ; ~~and~~ . Thereupon without any further act or proof, ~~secure some other judge of the same or another district~~ the chief judge of the judicial district shall assign any other judge of any court within the district to preside at the trial of the cause or the hearing of the motion ; ~~demurrer,~~ or order to show cause, and the cause shall be continued on the calendar, until ~~another~~ the assigned judge can be present. In criminal actions the notice to remove shall be made and filed with the clerk by the defendant, or his attorney, not less than two days before the expiration of the time allowed him by law to prepare for trial and in any of those cases the presiding judge shall be incapacitated to try the cause. In criminal cases, the chief judge, for the purpose of securing a speedy trial, may in his discretion change the place of trial to another county.

Subd. 2. **SUBSEQUENT DISQUALIFICATIONS.** After a litigant has once disqualified a presiding judge as a matter of right under subdivision 1, he may disqualify the substitute judge, but only by making an affirmative showing of prejudice. A showing that the judge might be excluded for bias from acting as a juror in the matter constitutes an affirmative showing of prejudice. If a litigant makes an affirmative showing of prejudice against a substitute judge, the chief judge of the judicial district shall assign any other judge of any court within the district to hear the cause.

Sec. 19. Minnesota Statutes 1978, Section 488A.08, is amended to read:

488A.08 **MISDEMEANOR VIOLATIONS BUREAUS.** Subdivision 1. **ESTABLISHMENT.** ~~Statute, traffic, and ordinance~~ Misdemeanor violation bureaus shall be established at Minneapolis, Bloomington, St. Louis Park, Wayzata, and Crystal and at such additional places as a majority of the judges of the court may establish consistent with Rule 23 of the rules of criminal procedure .

Subd. 2. **SUPERVISION.** ~~(a)~~ The court shall supervise and the clerk of municipal court shall supervise operate the traffic misdemeanor violations bureaus in accordance with Rule 23 of the rules of criminal procedure . Subject to approval by a majority of the judges the clerk shall assign one or more deputy clerks to discharge and perform the duties of the bureaus.

(b) A majority of the judges shall issue rules governing the duties and operation of the bureaus. These rules shall specify the violations for which fines may be paid to the bureaus without appearance before a judge and shall set the fine for each such violation.

(c) The traffic violations bureaus shall process all traffic tags; accept all fines payable on traffic tags at the bureaus pursuant to the judges' rules; set dates for arraignment on traffic tag charges to be heard in court; arrange for the issuance of warrants where there is a failure to respond to traffic tags; keep proper records and accounts and perform such other and further duties as the judges or the clerks may prescribe.

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Subd. 3. **UNIFORM TRAFFIC TICKET.** The term "traffic tag" means a written or printed notice served upon a person charged with the violation of a traffic law or municipal ordinance, charter provision, rule or regulation or affixed conspicuously to a motor vehicle operated, parked or standing in violation thereof, which requires appearance before a traffic violations bureau within a specified time. The county board of Hennepin County may alter by deletion or addition the uniform traffic ticket, provided in section 169.99, in such manner as it deems advisable for use in Hennepin County.

Subd. 4. **PROCEDURE BY PERSON RECEIVING MISDEMEANOR CITATION.** A person who receives a traffic tag misdemeanor or petty misdemeanor citation shall proceed as follows:

(a) If a fine for the violation may be paid at the bureau without appearance before a judge, the person charged may pay the fine in person or by mail to the bureau within the time specified in the tag citation. Such a Payment of the fine shall be deemed to be the entry of a plea of guilty to the violation charged and a consent to the imposition of a sentence for the violation in the amount of the fine paid. A receipt shall be issued to evidence the payment and the receipt so issued shall be complete satisfaction for the violation charged in that traffic tag citation.

(b) When a fine is not so paid, the person charged must appear at a bureau within the time specified in the tag citation, state whether he desires to enter a plea of guilty or not guilty, arrange for a date for arraignment in court and appear in court for arraignment on the date set by the bureau.

Sec. 20. Minnesota Statutes 1978, Section 488A.25, is amended to read:

488A.25 **MISDEMEANOR VIOLATIONS BUREAUS.** Subdivision 1. **ESTABLISHMENT.** Statute, traffic and ordinance Misdemeanor violations bureaus shall be established within those municipalities in which court sessions are conducted and at such additional places as a majority of the judges of the court establish consistent with Rule 23 of the rules of criminal procedure. The purpose of the statute, traffic and ordinance violations bureaus is to assist the court in handling the various criminal and civil matters that come before the court.

Subd. 2. **SUPERVISION.** The court shall supervise and the administrator of this court shall supervise operate the statute, traffic and ordinance misdemeanor violations bureaus and in accordance with Rule 23 of the rules of criminal procedure. The administrator shall assign a sufficient number of this court's employees to staff and operate the bureaus.

Subd. 3. **ADMINISTRATOR.** The judges shall issue written rules governing the duties and operation of the bureau. The administrator shall perform the duties relating to misdemeanor violations bureaus authorized to be performed by the clerk of court pursuant to Rule 23 of the rules of criminal procedure.

Sec. 21. Minnesota Statutes 1978, Section 546.11, is amended to read:

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546.11 **ORDER OF TRIAL.** In a civil case when the jury is completed and sworn, the trial shall proceed in the following order, unless for special reasons the court shall otherwise direct:

- (1) The plaintiff, after stating the issue, shall produce the evidence on his part;
- (2) The defendant may then open his defense, and produce his evidence in support thereof;
- (3) The parties may then respectively offer rebutting evidence only, unless the court, in furtherance of justice, shall permit either to introduce evidence upon his original case;
- (4) When the evidence is concluded, unless the case be submitted by one side or both without argument, the defendant shall open and the plaintiff close the argument to the jury; provided, that if the defendant have the affirmative of the issue to be tried the foregoing order of trial shall be reversed;
- (5) If several defendants, having separate defenses, appear by different counsel, the court shall determine their relative order in respect to both evidence and argument;
- (6) When the argument is closed the court may charge the jury.

Sec. 22. Minnesota Statutes 1978, Section 546.12, is amended to read:

546.12 **VIEW OF PREMISES; PROCEDURE.** In a civil case when the court deems it proper that the jury should view real property which is the subject of litigation, or the place where a material fact occurred, it may order them to be taken, in a body and in the custody of proper officers, to the place, which shall be shown to them by the judge, or by a person appointed by the court for that purpose; and while the jurors are thus absent, no one other than the judge or person so appointed shall speak to them on any subject connected with the trial.

Sec. 23. Minnesota Statutes 1978, Section 609.115, Subdivision 1, is amended to read:

609.115 **PRESENTENCE INVESTIGATION.** Subdivision 1. When a defendant has been convicted of a misdemeanor or gross misdemeanor ~~the court may and when the defendant has been convicted~~ of a felony the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused thereby to others and to the community. If the court so directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

The investigation shall be made by a probation officer of the court, if there is one, otherwise by the commissioner of corrections.

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Pending the presentence investigation and report, the court with the consent of the commissioner may commit the defendant to the custody of the commissioner of corrections who shall return the defendant to the court when the court so orders.

Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, Minnesota Statutes, Section 244.10, upon its effective date, and Rule 27 of the rules of criminal procedure.

Sec. 24. Minnesota Statutes 1978, Section 609.115, Subdivision 4, is amended to read:

Subd. 4. Any report made pursuant to subdivision 1 shall be ~~open to inspection by the prosecuting attorney and the defendant's attorney prior to sentence and~~ , if written, provided to counsel for all parties before sentence. The written report shall not disclose confidential sources of information unless the court otherwise directs. On the request of either of them ~~the prosecuting attorney or the defendant's attorney~~ a summary hearing in chambers shall be held on any matter brought in issue, but confidential sources of information shall not be disclosed unless the court otherwise directs. If the presentence report is given orally the defendant or his attorney shall be permitted to hear the report.

Sec. 25. Minnesota Statutes 1978, Section 611.06, is amended to read:

611.06 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 a defendant not represented by counsel , 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 approved by order of court as provided by Rule 22.01, Subdivision 3, of the rules of criminal procedure and required by ~~such~~ the defendant.

Issuance of subpoenas shall not require court approval if defendant is represented by counsel.

Sec. 26. Minnesota Statutes 1978, Section 627.01, is amended to read:

627.01 PLACE OF TRIAL; CHANGE OF VENUE. Except as otherwise provided by Rule 24 of the rules of criminal procedure, every criminal cause shall be tried in the county where the offense was committed ; ~~except as otherwise provided by law, unless it shall appear to the satisfaction of the court, by affidavit, that a fair and impartial trial cannot be had in such county, in which case the court before whom the same shall be pending, if the offense charged in the indictment is punishable with death or imprisonment in the state prison, may direct the person accused to be tried in some other county; in the same or any other judicial district in the state, where a fair and impartial trial can be had; but~~ . The party accused defendant shall be entitled to one change of venue only except in cases involving potential prejudicial publicity in accordance with Rule 25.02, Subdivision 5, of the rules of criminal procedure .

Sec. 27. Minnesota Statutes 1978, Section 628.01, is amended to read:

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628.01 **INDICTMENT.** An indictment is an accusation in writing, presented by a grand jury to a competent court, charging a person with a public offense. ~~A presentment is an informal statement, in writing, by a grand jury, representing to the court that a public offense has been committed; and that there is reasonable ground for believing that a particular individual, named or described, has committed it.~~

Sec. 28. Minnesota Statutes 1978, Section 628.02, is amended to read:

628.02 **REPORTS BY INDICTMENT.** The grand jury shall inquire into all public offenses committed or triable in the county, and report them to the court by ~~presentment or indictment. Upon such inquiry, if, from the evidence, the grand jury believes the person charged to be guilty of that or any other public offense, it shall find an indictment against him; but, if it only believes that he is probably guilty, it shall proceed by presentment.~~

Sec. 29. Minnesota Statutes 1978, Section 628.18, is amended to read:

628.18 **TESTS OF SUFFICIENCY.** The indictment shall be sufficient if it is drafted in accordance with the provisions of Rule 17.02 of the rules of criminal procedure and if it can be understood therefrom:

(1) That it is entitled in a court having authority to receive it, though the name of the court is not accurately stated;

(2) That it was found by a grand jury of the county in which the court was held;

(3) That the defendant is named, or, if his name cannot be discovered, that he is described by a fictitious name, with the statement that he has refused to discover his real name;

(4) That the offense was committed at some place within the jurisdiction of the court, except where, as provided by law, the act, though done without the local jurisdiction of the county, is triable therein;

(5) That the offense was committed at some time prior to the time of finding the indictment;

(6) That the act or omission charged as the offense is clearly and distinctly set forth, in ordinary and concise language, without repetition;

(7) That the act or omission charged as the offense is stated with such a degree of certainty as to enable the court to pronounce judgment, upon a conviction, according to the right of the case.

Sec. 30. Minnesota Statutes 1978, Section 628.54, is amended to read:

628.54 **CAUSES OF OBJECTION TO JUROR; HOW TRIED; DECISION ENTERED.** A challenge An objection to an individual grand juror may be ~~interposed for~~ **Changes or additions indicated by underline deletions by strikeout**

one or more only of based upon any of the following causes:

- (1) That he is less than 18 years of age;
- (2) That he is not a citizen of the United States;
- (3) That he has not resided in this state 30 days;
- (4) That he is insane;
- (5) That he is a prosecutor upon a charge against the defendant;
- (6) That he is a witness on the part of the prosecution, and has been served with process or bound by recognizance as such;
- (7) That a state of mind exists on his part in reference to the case or to either party which shall satisfy the court, in the exercise of a sound discretion, that he cannot act impartially and without prejudice to the substantial rights of the party ~~challenging~~ objecting.

~~All challenges shall be entered upon the minutes and tried by the court; and the clerk shall enter its decision allowing or disallowing the challenge upon the minutes:~~

Sec. 31. Minnesota Statutes 1978, Section 628.57, is amended to read:

628.57 JURY TO RETIRE; CLERK; DUTIES. The grand jury shall then retire to a private room and inquire into the offenses cognizable by it. It shall appoint one of its number clerk, who shall preserve the minutes of its proceedings, but not of the votes of the individual members on a ~~presentment or an~~ indictment ; ~~or of the evidence given before them .~~

Sec. 32. Minnesota Statutes 1978, Section 628.63, is amended to read:

628.63 GRAND JURY; WHO MAY BE PRESENT; COUNTY ATTORNEY TO ATTEND; DUTIES. The grand jury may at all reasonable times ask the advice of the court, or of the county attorney, and ; ~~when required by the grand jury,~~ the county attorney shall attend it for the purpose of framing indictments or examining witnesses in its presence ; ~~but no county attorney, sheriff, or other person, except the grand jurors, shall be permitted to be present during the expression of its opinions or the giving of their votes upon any matter before them .~~

The persons specified in Rule 18.04 of the rules of criminal procedure may, subject to the conditions specified in that rule, be present before the grand jury when it is in session, but no person other than the jurors may be present while the grand jury is deliberating or voting.

Sec. 33. Minnesota Statutes 1978, Section 628.68, is amended to read:

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628.68 DISCLOSURE OF TRANSACTIONS OF GRAND JURY. Except as otherwise provided in Rule 18.08 of the rules of criminal procedure, every judge, grand juror, county attorney, clerk, or other officer, who, except in the due discharge of his official duty, shall disclose, before an accused person shall be in custody, the fact that a ~~presentment has been made~~ or an indictment found or ordered against him, and every grand juror who, except when lawfully required by a court or officer, shall wilfully disclose any evidence adduced before the grand jury, or anything which he himself or any other member of the grand jury said, or in what manner he or any other grand juror voted upon any matter before them, shall be guilty of a misdemeanor. **Provided, however,** Disclosure may be made by the county attorney, by notice to the defendant or his attorney of the indictment and the time of defendant's appearance in the district court, if in the discretion of the judge ~~such~~ notice is sufficient to insure defendant's appearance.

Sec. 34. Minnesota Statutes 1978, Section 629.47, is amended to read:

629.47 HEARING OR TRIAL ADJOURNED; RECOGNIZANCE. Subject to the right of the accused to a speedy trial as prescribed by the rules of criminal procedure, every magistrate court may adjourn an examination a hearing or trial pending before himself, from time to time, as occasion shall require; not exceeding ten days at one time, without consent of the accused, and reconvene the hearing or trial at the same or a different place in the county as he shall think proper; and in such case, If the person is charged with an offense not bailable, he shall be committed in the meantime; otherwise he may be recognized in a sum and with sureties satisfactory to the magistrate for his appearance for further examination; and for want of such recognizance he shall be committed; but in a case where a person shall be brought before the judge of a municipal court charged with a misdemeanor, such court may receive cash bail for his appearance in an amount not more than double the highest cash fine which can be imposed for the offense, and within such limit he may, from time to time thereafter, increase or reduce such sum the conditions for his release shall be those specified by Rule 6.02 of the rules of criminal procedure. The maximum cash bail that may be required for a person charged with a misdemeanor shall be double the highest cash fine which may be imposed for the offense.

Sec. 35. Minnesota Statutes 1978, Section 629.48, is amended to read:

629.48 PROCEEDINGS ON FAILURE TO APPEAR. If the a person so recognized shall released under appearance bond as provided by Rule 6.02 of the rules of criminal procedure does not appear before the magistrate at the time appointed for such further examination; according to the conditions of such recognizance the bond, the magistrate court shall record the default and certify the recognizance bond, with the record of such the default, to the district court, and like proceedings shall be had thereon as upon the breach of the condition of a recognizance for appearance before that court violation of a condition of a release as provided in Rule 6.03 of the rules of criminal procedure.

Sec. 36. Minnesota Statutes 1978, Section 629.49, is amended to read:

629.49 FAILURE TO RECOGNIZE. When such a person shall fail fails to
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recognize, he shall be committed to prison by an order under the hand of the magistrate, stating concisely that he is committed for further examination on a future day; to be named in the order; and on the day appointed he may be brought before the magistrate; by his verbal order to the same officer by whom he was committed; or by an order, in writing, to a different person apprehended and further disposition of him shall be ordered consistent with the provisions of Rule 6 of the rules of criminal procedure .

Sec. 37. Minnesota Statutes 1978, Section 629.58, is amended to read:

629.58 **PROCEEDINGS ON DEFAULT.** When any person, in any criminal prosecution, under ~~recognizance bond~~ either to appear and answer, to prosecute an appeal, or to testify in any court, ~~shall fail~~ fails to perform the conditions of ~~such recognizance~~ the bond , his default shall be recorded, and process issued against the persons bound thereby, or such of them as the prosecuting officer ~~shall direct; and directs.~~ A person so failing to appear and answer shall be apprehended in the manner provided in Rule 6.03 of the rules of criminal procedure. Any surety may, by leave of court, after default, and either before or after process ~~shall be~~ is issued against him, pay to the county treasurer or clerk of court the amount for which he was bound as surety, with such costs as the court shall direct, and be thereupon forever discharged.

Sec. 38. Minnesota Statutes 1978, Section 629.61, is amended to read:

629.61 **ARREST OF DEFAULTER.** When a defendant in any indictment has been admitted to bail after verdict or trial, and ~~shall neglect~~ neglects to appear before any court or officer at any time or place at which he is bound to appear and submit to the jurisdiction of the proper court or officer, ~~such~~ the court or officer may cause him to be arrested in the same manner as upon the finding of an indictment, and may forfeit his ~~recognizance and direct the same to be prosecuted~~ provided in Rule 6.03, Subdivision 1, of the rules of criminal procedure. In accordance with Rules 6.02 and 6.03 of the rules of criminal procedure, the court or officer may continue the release upon the same conditions or impose different or additional conditions for the principal's possible release

Sec. 39. Minnesota Statutes 1978, Section 629.64, is amended to read:

629.64 **SURRENDER OF PRINCIPAL; CONDITIONS OF RELEASE.** When any ~~such~~ principal shall be is so surrendered, the officer or judge to whom he is surrendered shall, by a new commitment, commit him to jail, unless he shall give sufficient bail, with new sureties, as he was required by law to do in the first instance in accordance with Rules 6.02 and 6.03 of the rules of criminal procedure, continue the release upon the same conditions or impose different or additional conditions for the principal's possible release .

Sec. 40. Minnesota Statutes 1978, Section 630.18, is amended to read:

630.18 **GROUNDS FOR DISMISSAL; WAIVER.** In addition to the grounds for dismissal of an indictment specified in Rules 17.06, Subdivision 2, and 18.02, Subdivision 2, of the rules of criminal procedure and subject to the provisions of Rules 17.06,

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Subdivision 1, and 31.01, of the rules of criminal procedure, the indictment shall be set aside dismissed by the court in which the defendant is arraigned, upon his motion, in any of the following cases:

(1) When it ~~shall~~ the indictment is not be found, endorsed, ~~and~~ or presented as prescribed in sections 628.41 to 628.66 relating to grand juries:

(2) When the names of the witnesses examined before the grand jury are not inserted at the foot of the indictment or endorsed thereon;

(3) When a person ~~shall have been~~ was permitted to be present at the session of the grand jury while the charge embraced in the indictment was under consideration, except as provided by section 628.63; and Rule 18.04 of the rules of criminal procedure;

(4) When the grand jury by which the indictment was found had no legal authority to inquire into the offense charged, by reason of the offense charged not being within the local jurisdiction of the county;

(5) When the indictment does not substantially conform to the requirements of sections 628.10 to 628.13, as qualified by section 628.18, or was not found within the time prescribed therein;

(6) When more than one offense is charged in the indictment, except in cases where it is allowed by statute;

(7) When the facts stated do not constitute a public offense; or

(8) When the indictment contains any matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

If the motion to set aside dismiss the indictment ~~shall~~ is not be made, the defendant shall be precluded from afterwards ~~taking advantage~~ making any of the foregoing objections except that the objection to lack of jurisdiction specified in clause (4) and the objection of failure of the indictment to include facts stating a public offense specified in clause (7) shall be noticed by the court at any time during the pendency of a proceeding. Failure to include any objections constitutes a waiver thereof, but the court for good cause shown may, in accordance with Rule 10.03 of the rules of criminal procedure, grant relief from the waiver.

Sec. 41. Minnesota Statutes 1978, Section 631.05, is amended to read:

631.05 JUROR MAY TESTIFY, WHEN; VIEW. If a juror has any personal knowledge respecting a fact in controversy in a cause, he shall declare it in open court during the trial; if, during the retirement of a jury, a juror shall declare a fact, which could be evidence in the cause, as of his own knowledge, the jury shall return into court; and in either of these cases the juror making the statement shall be sworn as a witness and examined in the presence of the parties. The court may order a view by any jury impaneled to try a criminal case in accordance with Rule 26.03, Subdivision 10, of the

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rules of criminal procedure .

Sec. 42. **REPEALER.** Minnesota Statutes 1978, Sections 388.05; 487.25, Subdivisions 3, 4, 5, and 8; 488A.10, Subdivisions 3, 4, 5, and 9; 488A.27, Subdivision 9; 611.04; 611.08; 627.03; 627.04; 627.05; 627.06; 627.07; 627.08; 627.09; 627.10; 627.13; 627.14; 628.03; 628.04; 628.05; 628.06; 628.07; 628.08; 628.11; 628.14; 628.19; 628.29; 628.30; 628.31; 628.32; 628.33; 628.55; 628.58; 628.59; 628.64; 629.42; 629.43; 629.46; 629.50; 629.51; 629.52; 629.57; 630.01; 630.02; 630.03; 630.04; 630.05; 630.06; 630.07; 630.08; 630.09; 630.10; 630.11; 630.13; 630.14; 630.15; 630.16; 630.19; 630.20; 630.21; 630.22; 630.23; 630.24; 630.25; 630.26; 630.27; 630.28; 630.29; 630.30; 630.34; 631.01; 631.015; 631.03; 631.08; 631.10; 631.11; 631.16; 631.18; 631.19; 631.23; 631.24; 631.25; 631.26; 631.27; 631.28; 631.29; 631.30; 631.31; 631.32; 631.34; 631.35; 631.37; 631.38; 631.39; 632.01; 632.02; 632.03; 632.04; 632.05; 632.06; 632.07; 632.08; 632.09; 632.10; 632.11; 632.12; and 632.13 are repealed.

Approved May 29, 1979.

CHAPTER 234—S.F.No.186

An act relating to crimes; limiting a perpetrator's right to commercially exploit the crime; providing for the payment of crime victims; appropriating money; amending Minnesota Statutes 1978, Chapter 299B, by adding a section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1978, Chapter 299B, is amended by adding a section to read:

[299B.17] LIMITING COMMERCIAL EXPLOITATION OF CRIMES; PAYMENT OF VICTIMS. Subdivision 1. For purposes of this section "crime" means an offense which is a felony under the laws of Minnesota.

Subd. 2. A legal entity that contracts with an individual person or the representative or assignee of a person who has been convicted of a crime in this state, or found not guilty by reason of insanity, regarding (a) the reenactment of the crime, by way of a movie, book, newspaper or magazine article, radio or television presentation, or live or recorded entertainment of any kind, or (b) the expression of the person's thoughts, feelings, opinions or emotions about the crime, shall notify the crime victims reparations board of the existence of the contract and pay over to the crime victims reparations board any moneys owed to that person or his representatives by virtue of the contract. If the crime occurred in this state, the proportion payable is one hundred percent. If the crime occurred in another jurisdiction having a law applicable to the case which is substantially similar to this section, the proportion payable is zero and this section does not apply. In all other cases, the proportion payable is that which fairly can be allocated to commerce in this state. This section does not apply to crimes occurring outside the United States. The board shall deposit the moneys pursuant to subdivision 7 and assign the amount

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