

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

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SECTION 1. The killing of a human being, without the authority of law, by poison, shooting, stabbing, or any other means, or in any other manner, is either murder, manslaughter, or excusable or justifiable homicide, according to the facts and circumstances of each case.

The killing of a human being is, what.

SEC. 2. Such killing when perpetrated with a premeditated design to effect the death of the person killed, or any human being, shall be murder in the first degree, and whoever is convicted of the same shall suffer the penalty of death; but any person convicted of any capital crime shall be kept in solitary confinement for a period of not less than one month nor more than six months, in the discretion of the judge before whom the conviction is had; at the expiration of which time it shall be the duty of the governor to issue his warrant of execution. Such killing, when perpetrated by any act eminently dangerous to one or more persons, and evincing a depraved mind, regardless of the life of such person or persons, although without any design to effect death, shall be murder in the second degree, and shall be punished by imprisonment in the state prison for life; when perpetrated without any design to effect death by a person engaged in the commission of any felony, it shall be murder in the third degree, and be punished by imprisonment in the state prison not more than thirty years nor less than seven years.

Such killing is murder, when—punishment. 3 Min. 427.

When warrant of execution shall issue.

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SEC. 3. The killing of one human being by the act, procurement, or omission of another; in cases where such killing is not murder according to the provisions of this chapter, is either justifiable or excusable homicide, or manslaughter.

When justifiable or excusable homicide or manslaughter.

SEC. 4. Such homicide is justifiable when committed by public officers and those acting by their command, in their aid and assistance, either in

Justifiable homicide by public officers.

obedience to any judgment of any competent court; or when necessarily committed in overcoming actual resistance to the execution of some legal process, or to the discharge of any other legal duty; or when necessarily committed in retaking felons who have been rescued, or who have escaped; or when necessarily committed in arresting felons fleeing from justice.

Justifiable homicide by any person.

SEC. 5. Such homicide is also justifiable when committed by any person in either of the following cases:

First. When resisting any attempt to murder such person, or to commit any felony upon him or her, or upon or in any dwelling house in which such person is; or,

Second. When committed in the lawful defence of such person, or of his, or her husband, wife, parent, child, master, mistress, or servant, when there is a reasonable ground to apprehend a design to commit a felony, or to do some great personal injury, and there is imminent danger of such design being accomplished; or,

Third. When necessarily committed in attempting by lawful ways and means to apprehend any person for any felony committed; or lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

Excusable homicide.

SEC. 6. Such homicide is excusable when committed by accident or misfortune in lawfully correcting a child or servant, or in doing any other lawful act by lawful means, with ordinary caution, and without any unlawful intent.

Jury shall acquit, when.

SEC. 7. Whenever it appears to the jury, on the trial of any person for murder, or manslaughter, that the alleged homicide was committed under circumstances, or in cases where by law such homicide was justifiable or excusable, the jury shall render a verdict of not guilty.

Manslaughter in first degree.

SEC. 8. The killing of a human being, without a design to effect death, by the act, procurement, or culpable negligence of any other, while such other is engaged in the perpetration of any crime or misdemeanor, not amounting to felony; or in an attempt to perpetrate any such crime or misdemeanor, in cases where such killing would be murder, at the common law, is manslaughter in the first degree.

Manslaughter in first degree.

SEC. 9. Whoever deliberately assists another in the commission of self-murder, is guilty of manslaughter in the first degree.

Manslaughter in first degree.

SEC. 10. The willful killing of an unborn infant child, any injury to the mother of such child, which would be murder if it resulted in the death of such mother, is manslaughter in the first degree.

Manslaughter in second degree.

SEC. 11. Whoever administers to any woman pregnant with a quick child, any medicine, drug, or substance whatever, or uses or employs any instrument or other means, with intent thereby to destroy such child, unless the same is necessary to preserve the life of such mother, or was advised by two physicians to be necessary for such purpose, shall, in case the death of such child or of such mother is thereby produced, be guilty of manslaughter in the second degree.

Manslaughter in second degree.

SEC. 12. The killing of a human being by another, in a heat of passion, upon sudden provocation, or in sudden combat, intentionally, but without premeditation, is manslaughter in the second degree.

Manslaughter in second degree.

SEC. 13. Whoever unnecessarily kills another, except by accident or misfortune, and except in cases mentioned in subdivision two of section five of this chapter, either while resisting an attempt by such other person to commit any felony, or to do any other unlawful act, or after such attempt has failed, shall be guilty of manslaughter in the second degree.

Manslaughter in second degree.

SEC. 14. The killing of a human being by another, without a design to effect death, but with a dangerous weapon, or in a cruel and unusual manner, in the heat of passion, upon sudden provocation, or in sudden combat, is manslaughter in the second degree.

SEC. 15. The involuntary killing of a human being, by the act, procurement, or culpable negligence of another, while such other person is engaged in the commission of a trespass, or other injury to private rights or property, or engaged in an attempt to commit such injury, or engaged in an unlawful act, which killing would not be manslaughter in the first or second degree, according to the provisions of the preceding sections of this chapter, is manslaughter in the third degree.

Manslaughter in third degree.

SEC. 16. If the owner of a mischievous animal, knowing its propensities, willfully suffers it to go at large, or keeps it without ordinary care, and such animal while so at large or not confined, kills any human being who has taken all the precautions which the circumstances permit, to avoid such animal, such owner is guilty of manslaughter in the third degree.

Manslaughter in third degree.

SEC. 17. Any person navigating any boat or vessel for gain, who willfully or negligently receives so many passengers, or such a quantity of other lading, that by means thereof such boat or vessel sinks or oversets, and thereby any human being is drowned or otherwise killed, is guilty of manslaughter in the third degree.

Manslaughter in third degree.

SEC. 18. If the captain, or any other person, having charge of any steamboat used for the conveyance of passengers, or if the engineer or other person, having charge of the boiler of such boat, or of any other apparatus for the generation of steam, shall, from ignorance or gross neglect, or for the purpose of excelling any other boat in speed, create or allow to be created such an undue quantity of steam as to burst or break the boiler or other apparatus in which it is generated, or any apparatus or machinery connected therewith, by which, in bursting or breaking, any person is killed, every such captain, engineer, or other person, is guilty of manslaughter in the third degree.

Manslaughter in third degree.

SEC. 19. If any conductor, engineer, brakeman or other person having the management or control of any railroad train, locomotive, engine or cars, upon any railroad, is guilty of gross negligence or carelessness or neglect, in relation to the conduct, management or control of such railroad train, engine, or cars, by reason of which any human being is killed, he is guilty of manslaughter in the first degree.

Manslaughter in third degree.

SEC. 20. If any physician, while in a state of intoxication, without a design to effect death, administers any poison, drug or medicine, or does any other act to another person, which produces the death of such other, he is guilty of manslaughter in the third degree.

Manslaughter in third degree.

SEC. 21. The involuntary killing of a human being by another, with any weapon not dangerous, or by any means neither cruel nor unusual, in the heat of passion, is manslaughter in the fourth degree.

Manslaughter in fourth degree.

SEC. 22. Every other killing of a human being by the act, procurement or culpable negligence of another, where such killing is not justifiable or excusable, or is not declared, in this chapter, murder, or manslaughter of some other degree, is manslaughter in the fourth degree.

Manslaughter in fourth degree.

SEC. 23. Persons convicted of manslaughter in the first, second or third degrees, shall be punished by imprisonment in the state prison as follows:

Manslaughter in first, second and third degrees, how punished.

Persons convicted of manslaughter in the first degree, for a term not less than seven years; if convicted of manslaughter in the second degree, for a term not more than seven nor less than four years; if convicted of manslaughter in the third degree, for a term not more than four years nor less than two years.

SEC. 24. Whoever is convicted of manslaughter in the fourth degree, shall be punished by imprisonment in the state prison for two years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Manslaughter in fourth degree, how punished.

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OFFENSES AGAINST LIFE AND PERSON.

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Murder in second degree.

SEC. 25. Whoever by previous engagement or appointment, fights a duel within the jurisdiction of this state, and in so doing inflicts a wound upon any person, whereof the person so injured dies, is guilty of murder in the second degree.

Murder in second degree.

SEC. 26. Whoever is the second of either party in such duel as is mentioned in the preceding section, and is present when such wound is inflicted whereof death shall ensue, is an accessory before the fact to the crime of murder in the second degree.

Penalty for fighting or acting in duel.

SEC. 27. Whoever fights a duel, without this state, or acts as a second or surgeon in the same, by previous arrangement, within this state, shall be incapable of voting or holding any office within this state, forever thereafter.

Engaging in duel or sending challenge, how punished.

SEC. 28. Whoever engages in a duel with any deadly weapon, although no homicide ensues, or challenges another to fight such duel, or sends or delivers any written or verbal message, purporting or intending to be such challenge, although no duel ensues, shall be punished by imprisonment in the state prison not more than ten years, nor less than three years, and shall be incapable of voting or holding any office of trust or profit under the laws of this state.

Accepting challenge, or aiding in duel, how punished.

SEC. 29. Whoever accepts such challenge, or who knowingly carries or delivers any such challenge or message, whether a duel ensues or not, and every person who is present at the fighting of a duel with deadly weapons, as an aid or second, or surgeon, or who advises, encourages or promotes such duel, shall be punished by imprisonment in the state prison not more than two years, nor less than one year.

Posting another, &c., how punished

SEC. 30. Whoever posts another, or, in writing or print, uses any reproachful or contemptuous language to, or concerning another, for not fighting a duel, or for not sending or accepting a challenge, shall be punished by imprisonment in the state prison, not more than one year, nor less than six months, or by fine not exceeding five hundred dollars nor less than one hundred dollars.

Punishment for mayhem.

SEC. 31. Whoever, with malicious intent to maim or disfigure, cuts out or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts, slits or mutilates the nose or lips, or cuts off or disables a limb or member of any person, and every person privy to such intent, who is present aiding in the commission of such offense, shall be punished by imprisonment in the state prison, not more than five years, nor less than one year, or by fine not exceeding one thousand dollars, nor less than two hundred dollars.

Assault with intent to murder or maim, how punished.

SEC. 32. Whoever assaults another, with intent to murder, or to maim, or to disfigure his person in any of the ways mentioned in the preceding section, shall be punished by imprisonment in the state prison not more than five years nor less than one year, or by fine not exceeding one thousand dollars, nor less than one hundred dollars.

Assault with dangerous weapon, how punished. 2 Min., 123.

SEC. 33. Whoever being armed with a dangerous weapon, assaults another, with intent to do great bodily harm, shall be punished by fine not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the state prison not more than five years, in the discretion of the court.

Robbery, how punished.

SEC. 34. Whoever assaults another, and feloniously robs, steals and takes from his person any money or other property which is the subject of larceny, such robber being armed with a dangerous weapon, with intent, if resisted, to kill or maim the person robbed, or if, being so armed, he wounds or strikes the person robbed, shall be punished by imprisonment in the state prison not more than ten years, nor less than three years.

SEC. 35. Whoever, being armed with a dangerous weapon, assaults another with intent to rob or to murder, shall be punished by imprisonment in the state prison not more than five years, nor less than one year.

Assault with intent to rob or murder, how punished. 2 Min. 123.

SEC. 36. Whoever, by force and violence, or by assault and putting in fear, feloniously robs, steals and takes from the person of another, any money or other property which is the subject of larceny, such robber not being armed with a dangerous weapon, shall be punished by imprisonment in the state prison, not more than three years, nor less than one year.

Robbery without dangerous weapon, how punished.

SEC. 37. Whoever, not being armed with a dangerous weapon, assaults another with force and violence, and with intent to rob or steal, shall be punished by imprisonment in the state prison, not more than two years, nor less than six months.

Assault with intent to rob or steal, how punished.

SEC. 38. Whoever, either verbally or by any written or printed communication, maliciously threatens any injury to the person or property of another, with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do any act against his will, shall be punished by imprisonment in the state prison, not more than one year, nor less than six months, or by fine not exceeding five hundred dollars, nor less than one hundred dollars.

Attempt to extort money, &c., by threats, how punished. 5 Min. 13.

SEC. 39. Whoever ravishes and carnally knows any female of the age of ten years or more, by force and against her will, shall be punished by imprisonment in the state prison not more than thirty years, nor less than ten years; but if the female on trial is proven to have been at the time of the offense, a common prostitute, he may be imprisoned not more than one year.

Rape, how punished. 6 Min. 279

SEC. 40. Whoever unlawfully and carnally knows and abuses any female child under the age of ten years, shall be punished by imprisonment in the state prison for life.

Carnal knowledge of child under ten years of age, how punished.

SEC. 41. Whoever assaults any female, with intent to commit the crime of rape, shall be punished by imprisonment in the state prison, not more than ten years, nor less than one year.

Assault with intent to commit rape, how punished. 6 Min. 279.

SEC. 42. Whoever, without lawful authority, and willfully or maliciously, and with a wrongful intent, forcibly or secretly confines or imprisons any other person in this state against his will, or forcibly carries or sends such person out of the state against his will, or forcibly seizes and confines, inveigles or kidnaps any other person, with intent either to cause such person to be secretly confined or imprisoned in this state against his will, or to cause such person to be sent out of this state against his will, or to be sold as a slave, or in any way held to service against his will; and whoever sells, or in any manner transfers for any term, the service or labor of any negro, mulatto, or other person of color, who has been unlawfully seized, taken, inveigled or kidnapped, from this state to any state, place or country, shall be punished by imprisonment in the state prison, not more than five years, nor less than one year, or by fine not exceeding one thousand dollars, nor less than five hundred dollars.

False imprisonment, and kidnapping, how punished.

SEC. 43. Every offense mentioned in the preceding section may be tried either in the county in which the same was committed, or in any county in or to which the person so seized, taken, inveigled, kidnapped or sold, or whose services were so sold or transferred, has been taken, confined, held, carried or brought, and upon the trial of any such offense, the consent thereto of the person so taken, inveigled, kidnapped or confined, shall not be a defence, unless it satisfactorily appears to the jury that such consent was not obtained by fraud, nor extorted by duress or by threats.

Offenses in such cases, where tried

Administering poison with intent to kill or injure, how punished.

Assault with intent to commit felony, how punished. 6 Min. 279.

SEC. 44. Whoever mingles any poison with any food, drink or medicine, with intent to kill or injure any other person, or willfully poisons any spring, well or reservoir of water, with such intent, shall be punished by imprisonment in the state prison, not more than ten years, nor less than one year.

SEC. 45. Whoever assaults another, with intent to commit any burglary, robbery, rape, manslaughter, mayhem, or any felony, the punishment of which assault is not herein prescribed, shall be punished by imprisonment in the state prison, not more than three years, nor less than six months, or by fine not exceeding one thousand dollars, nor less than one hundred dollars.

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CHAPTER XCV.

OFFENSES AGAINST PROPERTY.

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