

CHAPTER 633

CRIMINAL PROCEEDINGS BEFORE JUSTICES OF THE PEACE

Sec.		Sec.	
633.01	Jurisdiction of justices of the peace in criminal matters	633.20	Appeal; requisites
633.02	Trial powers; limitation	633.21	Allowance of appeal
633.03	Complaint; warrant	633.22	How tried
633.04	Entries in docket	633.23	Conviction on appeal; costs
633.05	Action, when tried	633.24	Failure to prosecute
633.06	Bail; commitment	633.25	Judgment against defendant and sureties
633.07	Form of recognizance	633.26	Juror or witness in contempt
633.08	Arraignment; plea	633.27	Certificate of conviction; duty of clerk of district court; statement of costs
633.09	On plea of guilty	633.28	Report to county attorney
633.10	Plea of not guilty	633.29	Breach of peace
633.11	Jury; list of names	633.30	Breach of recognizance
633.12	Striking names; venire	633.31	Want of final jurisdiction; proceedings
633.13	Jury, how summoned	633.32	Witnesses; justice to summon
633.14	Deficiency, how supplied	633.33	Judgment on conviction; commitment; execution
633.15	New jury, when	633.34	Attendance of witnesses on continuance
633.16	Trial by jury	633.35	Security for costs
633.17	Verdict	633.36	Fines; how collected and paid over
633.18	Judgment on conviction	633.37	Schedule of forms
633.19	Acquittal; judgment for costs		

**633.01 JURISDICTION OF JUSTICES OF THE PEACE IN CRIMINAL MATTERS.** Justices of the peace have power and jurisdiction, throughout their respective counties, as follows:

- (1) To cause to be kept all laws made for the preservation of the peace;
- (2) To cause to come before them, or any of them, persons who break the peace, and commit them to jail, or bail them, as the case may require;
- (3) To arrest and cause to come before them, persons who attempt to break the peace, persons who keep houses of ill-fame, or frequenters of the same, or common prostitutes, and compel them to give security for their good behavior, and to keep the peace;
- (4) To cause to come before them persons who are charged with committing any criminal offense and commit them to jail, or bail them, as the case may require; provided that no justices of the peace shall have jurisdiction of any offenses committed within the limits of any city or village wherein a municipal court is organized and existing, but such offenses, otherwise cognizable by justices of the peace, and those arising under the charter, ordinances, or by-laws of the city or village shall be examined or tried by the municipal court therein existing; provided that this section shall not apply to any cities or villages having justice of the peace courts established by home rule charter, nor to territory within one-half mile of the outer limits of the state fair grounds.

[R. L. s. 3999; 1905 c. 104; 1907 c. 234] (9110)

**633.02 TRIAL POWERS; LIMITATION.** Justices have power to hold a court, subject to the provisions hereinafter contained, to hear, try, and determine all charges for offenses arising within their respective counties where the punishment prescribed by law does not exceed a fine of \$100.00 or imprisonment for three months.

[R. L. s. 4000] (9111)

**633.03 COMPLAINT; WARRANT.** Upon complaint made to any justice that any such offense has been committed within the county, he shall examine the complainant on oath, and the witnesses produced by him, and reduce the complaint to writing, and cause the same to be subscribed by the complainant; and, if it appears that such offense has been committed, the justice shall issue his warrant, reciting the substance of the complaint, and require the officer to whom it is directed forthwith to arrest the accused and bring him before such justice, or some other justice of the same county, to be dealt with according to law, and in the same warrant may require the officer to summon such witnesses as shall be named therein to appear and give evidence at the trial.

[R. L. s. 4001] (9112)

MINNESOTA STATUTES 1941

633.04 ENTRIES IN DOCKET. The justice shall enter the action in his docket, in which the state of Minnesota shall be plaintiff, and the accused, defendant, and he shall make all such other entries as are required in civil actions.

[R. L. s. 4002] (9113)

633.05 ACTION, WHEN TRIED. On the return of the warrant with the accused, the justice shall proceed to hear, try, and determine the action within one day, unless continued for cause.

[R. L. s. 4003] (9114)

633.06 BAIL; COMMITMENT. From the time of the return of the warrant until the conclusion of the trial, the accused may give bail, with sufficient surety, for his appearance at the time fixed for the trial, and from time to time thereafter until discharged by law, or, in the event of failure to do so, he may be committed to jail for safe-keeping, by order of the justice, or left in the custody of the officer.

[R. L. s. 4004] (9115)

633.07 FORM OF RECOGNIZANCE. The following form of recognizance may be used in all courts not of record, upon the adjournment of any criminal action, proceeding, or examination:

"We, A. B. and C. D. and E. F., hereby give bail in the sum of \$..... for the appearance of the said A. B. upon the ..... day of ....., 19....., at .....m. of that day, before G. H., a justice of the peace of said county, at his office in the ..... of ....., in said county, to answer (the criminal prosecution, examination, or proceeding) for (state offense), and from time to time thereafter until discharged by law.

Dated this ..... day of ....., 19.....

.....  
.....  
.....

Taken and acknowledged before me the date aforesaid.

.....  
Justice of the Peace."

[R. L. s. 4005] (9116)

633.08 ARRAIGNMENT; PLEA. The charge made against the accused, as stated in the warrant of arrest, shall be distinctly read to him, and he shall be required to plead thereto, which plea the justice shall enter in his docket. If the accused refuses to plead, the justice shall enter the fact in his docket, with a plea of not guilty in his behalf.

[R. L. s. 4006] (9117)

633.09 ON PLEA OF GUILTY. If the accused pleads guilty to such charge, the court shall thereupon convict him of the offense charged, and render judgment thereon.

[R. L. s. 4007] (9118)

633.10 PLEA OF NOT GUILTY. If the plea is not guilty, and a jury is waived by the accused, the justice shall proceed to try such issue, and determine the same according to the evidence produced against and in behalf of the accused.

[R. L. s. 4008] (9119)

633.11 JURY; LIST OF NAMES. After the joining of issue, unless the accused expressly waives his right to a trial by jury, the court, before proceeding to an investigation of the merits of the action, shall direct the sheriff or any constable of the county to make a list, in writing, of the names of 24 inhabitants of the county qualified to serve as jurors in the district court.

[R. L. s. 4009] (9120)

633.12 STRIKING NAMES; VENIRE. From such list the complainant and accused may each strike six names and, if either party refuses so to strike, the justice shall direct some suitable, disinterested person to strike such names for either or both of the parties so neglecting. When such names are stricken from the list, the justice shall issue a venire, directed to the sheriff or any constable of the county, requiring him to summon the 12 persons whose names remain to appear before such justice at a time and place to be named therein, as a jury for the trial of such cause.

[R. L. s. 4010] (9121)

633.13 JURY, HOW SUMMONED. The officer to whom such venire is delivered shall summon such jury personally. He shall make a list of the persons sum-

moned, which he shall certify and annex to the venire, and return the same with such venire to the justice within the time therein specified.

[R. L. s. 4011] (9122)

**633.14 DEFICIENCY, HOW SUPPLIED.** If any such jurors fail to attend, or if there is legal objection to any that appear, the justice shall direct the sheriff or any constable who may be present and disinterested to summon bystanders or others who are competent, and against whom no cause of challenge appears, to supply the deficiency. Either party may challenge any juror for cause.

[R. L. s. 4012] (9123)

**633.15 NEW JURY, WHEN.** If the officer to whom the venire is delivered fails to return the same as thereby required, or if the jury fails to agree and is discharged by the justice, a new jury shall be selected and summoned in the same manner, and the same proceedings shall thereupon be had as herein prescribed in respect to the first jury, unless the accused consents to be tried by the justice without a jury, in which case the issue shall be tried by the justice the same as if a jury had been waived.

[R. L. s. 4013] (9124)

**633.16 TRIAL BY JURY.** After being sworn, the jury shall sit together and hear the allegations and evidence in the case, which shall be given in public and in the presence of the accused, and after hearing the same the jury shall be kept together in some convenient place until it agrees on a verdict or is discharged by the court, and a sheriff or constable shall be sworn to take charge of it in like manner as upon jury trials in justice courts in civil causes.

[R. L. s. 4014] (9125)

**633.17 VERDICT.** When the jury has agreed upon its verdict it shall deliver the same to the justice publicly, who shall enter it in his docket.

[R. L. s. 4015] (9126)

**633.18 JUDGMENT ON CONVICTION.** When the accused is tried under the provisions of this chapter, and found guilty, or is convicted on a plea of guilty, the justice shall render judgment thereon and inflict such punishment, either by fine or imprisonment, or both, as the nature of the case may require; provided, that when the facts of the case so warrant, the justice shall have power, in his discretion, to suspend sentence or place the defendant on probation for a period of not exceeding one year, or, where a fine has been imposed, to order such fine to be paid in instalments over a period of not exceeding one year.

[R. L. s. 4016; 1937 c. 60 s. 1] (9127)

**633.19 ACQUITTAL; JUDGMENT FOR COSTS.** If the accused be acquitted, he shall be immediately discharged; and if the justice before whom the trial is had shall certify in his docket that the complaint was wilful and malicious, and without probable cause, he shall enter judgment against the complainant for all costs that shall have accrued in the proceedings had upon the complaint. The complainant may stay such judgment for 30 days by giving a bond to the state, with sufficient sureties, conditioned to pay the same at the expiration of such time; but, if the complainant shall neglect to pay such judgment or give such bond, execution may issue as in other cases. The defendant in such judgment may appeal therefrom as in civil cases tried before a justice, and the cause shall be tried by the appellate court on the records and evidence in the case duly certified and returned by the justice.

[R. L. s. 4017] (9128)

**633.20 APPEAL; REQUISITES.** Any person convicted of a criminal offense by a justice may appeal to the district court upon complying with the following requisites within ten days thereafter:

(1) The person so appealing shall enter into a recognizance, with sufficient surety, to be approved by the justice, conditioned to appear before the district court on the first day of the general term thereof next to be held in and for the same county, and abide the judgment of such court therein, and in the meantime to keep the peace and be of good behavior;

(2) He shall serve a notice upon the county attorney, or, in case there be no county attorney, or he is absent from the county, on the clerk of the district court, specifying the grounds of his appeal, as follows: That the appeal is taken upon questions of law alone, or upon questions of law and fact.

[R. L. s. 4018] (9129)

**633.21 ALLOWANCE OF APPEAL.** Upon compliance with the provisions of section 633.20, the justice shall allow the appeal and make an entry of such allow-

ance in his docket, and all further proceedings on the judgment before the justice shall be suspended by such allowance. If the defendant has been committed to jail, the justice shall thereupon cause his certificate that an appeal has been perfected to be served upon the keeper of such jail, who shall forthwith release the defendant from custody. The justice shall thereupon make a return of all the proceedings had before him, and cause the complaint, warrant, recognizance, notice of appeal, with proof of service thereof, and all other papers relating to such cause filed with him, to be filed in the district court of the same county on or before the first day of the general term thereof next to be held therein; and the complainant and witnesses may also be required to enter into a recognizance, with or without sureties, in the discretion of the justice, to appear at such term of court and abide the order of the court therein.

[R. L. s. 4019] (9130)

**633.22 HOW TRIED.** Upon an appeal on questions of law alone, the cause shall be tried in the district court upon the return of the justice. Upon an appeal on questions of law and fact, the cause shall be tried in the same manner as if commenced in the district court. Upon an appeal on questions of law alone, the justice, upon the request of either party, shall return to the district court a certified transcript of all the evidence offered or received upon the trial, which shall be filed with the clerk as a part of the return of the justice.

[R. L. s. 4020] (9131)

**633.23 CONVICTION ON APPEAL; COSTS.** The appellant shall not be required to advance any fees in claiming or prosecuting his appeal, but, if convicted in the district court, or if sentenced for failing to prosecute his appeal, may be required, as a part of the sentence, to pay the whole or any part of the costs of prosecution in both courts.

[R. L. s. 4021] (9132)

**633.24 FAILURE TO PROSECUTE.** If the appellant fails to enter and prosecute his appeal, he shall be defaulted on his recognizance, and the district court may award sentence against him for the offense whereof he was convicted, in like manner as if the conviction had been in that court; and, if he is not then in custody, process may be issued to bring him into court to receive sentence.

[R. L. s. 4022] (9133)

**633.25 JUDGMENT AGAINST DEFENDANT AND SURETIES.** If the judgment of the justice is affirmed, or upon trial in the district court defendant is convicted and a fine assessed, judgment for such fine and costs in both courts may be rendered against defendant and his sureties.

[R. L. s. 4023] (9134)

**633.26 JUROR OR WITNESS IN CONTEMPT.** Every person summoned to appear before a justice, pursuant to the provisions of this chapter, as a juror or witness, who shall fail to appear, and every witness appearing who refuses to be sworn or to testify, is liable to the same penalties and may be proceeded against in the same manner as provided by law in respect to jurors and witnesses in civil causes in justice courts.

[R. L. s. 4024] (9135)

**633.27 CERTIFICATE OF CONVICTION; DUTY OF CLERK OF DISTRICT COURT; STATEMENT OF COSTS.** Every justice, within 20 days after any conviction had before him, shall make and cause to be filed with the clerk of the district court of his county a certificate, under his hand, briefly stating therein the offense charged, the conviction and judgment, and the amount of fine collected. The clerk of the district court where the same is filed shall thereupon record, docket, index, and make a permanent record of such conviction in books kept for that purpose in his office, and shall receive for such services the same compensation as is now by statute provided for entering and indexing all other similar actions coming into his office. Within ten days after the trial of any criminal action before him, such justice shall prepare an itemized statement of the costs taxed therein against the state and file the same with the county auditor. No bills for justice fees shall be allowed by the county board until such statement is filed, and until all fines collected by such justice have been forwarded as provided by law. For each of such reports, required to be made by this section, the justice may include in his taxable costs 25 cents.

[R. L. s. 4025; 1907 c. 317] (9136)

**633.28 REPORT TO COUNTY ATTORNEY.** Each such justice, within ten days after the conclusion of any criminal case prosecuted before him, shall make a report thereof to the county attorney, briefly stating in such report the title of the cause, the nature of the accusation, the result of the trial, and, if defendant is convicted, the nature and extent of the punishment, whether defendant was under the influence of intoxicating liquor when the offense was committed, the amount of costs paid or incurred by the state, and the amount of fines and costs, stated separately, paid by defendant.

[R. L. s. 4026] (9137)

**633.29 BREACH OF PEACE.** If the justice has knowledge that any person is about to commit an assault or engage in an affray, he shall issue his warrant, and thereupon proceed in the same manner as if a complaint had been made, and if any such offense is committed, threatened, or attempted in his presence, he shall immediately cause the offender to be arrested, for which purpose he may summon to his assistance all persons present, whose duty it shall be to aid him in preserving the peace and arresting and securing the offender. Any person so summoned who refuses his assistance shall forfeit \$5.00 to the use of the county.

[R. L. s. 4027] (9138)

**633.30 BREACH OF RECOGNIZANCE.** In case of the breach of any recognizance given in a criminal case in justice court, the same shall be certified and returned to the district court, to be proceeded in according to law.

[R. L. s. 4028] (9139)

**633.31 WANT OF FINAL JURISDICTION; PROCEEDINGS.** If, in the progress of any trial under the provisions of this chapter, it appears to the justice that he has not final jurisdiction in the case, and that the accused should be held to answer for the offense before the district court, the justice shall stop all further proceedings in the trial, and proceed as in other criminal cases cognizable before the district court.

[R. L. s. 4029] (9140)

**633.32 WITNESSES; JUSTICE TO SUMMON.** In all cases arising under this chapter the justice shall summon the injured party, and all others whose testimony is deemed material as witnesses at the trial, and enforce their attendance by attachment, if necessary.

[R. L. s. 4030] (9141)

**633.33 JUDGMENT ON CONVICTION; COMMITMENT; EXECUTION.** In all cases of conviction under this chapter the justice shall enter judgment for the fine and costs against defendant, and may commit him until the judgment is satisfied, or issue execution on the judgment to the use of the county. No justice shall commit a defendant under this section for more than three months.

[R. L. s. 4031] (9142)

**633.34 ATTENDANCE OF WITNESSES ON CONTINUANCE.** When the trial of a cause is continued, the justice shall verbally notify the witnesses present to appear at the time to which the same is continued and testify therein, and no other notice or summons shall be necessary.

[R. L. s. 4032] (9143)

**633.35 SECURITY FOR COSTS.** The justice may require that the complainant give security for costs and, if he refuses, may dismiss the complaint.

[R. L. s. 4033] (9144)

**633.36 FINES; HOW COLLECTED AND PAID OVER.** All fines imposed by a justice, paid before the defendant is committed, shall be received by the justice. After commitment, payment thereof shall be made to the sheriff. In either case the officer receiving such fine shall pay the same over to the county treasurer within 20 days after he receives it. Any justice or other officer receiving any such fine who shall fail to pay the same to the county treasurer within the time aforesaid shall be guilty of a misdemeanor.

[R. L. s. 4034] (9145)

**633.37 SCHEDULE OF FORMS.** The following forms may be used under this chapter:

MINNESOTA STATUTES 1941

“WARRANT

State of Minnesota }
County of ..... } ss.

The State of Minnesota, to the Sheriff or Any Constable of Said County:

Whereas, ..... has this day complained in writing to me, on oath, that ..... did, on the ..... day of ....., 19....., at ....., in said county (here insert the complaint, whatever it may be), and prayed that the said ..... might be arrested and dealt with according to law: Now, therefore, you are commanded forthwith to apprehend the said ....., and bring him before me, to be dealt with according to law.

Given under my hand this ..... day of ....., 19.....
J. P., Justice of the Peace.”

“CERTIFICATE OF CONVICTION

State of Minnesota }
County of ..... } ss.

At a justice’s court held at my office, in said county, before me, ....., a justice of the peace in and for said county, for the trial of ..... for the offense hereinafter stated, the said ..... was convicted of having, on the ..... day of ....., 19....., at ....., in said county (here state the offense as in the warrant); and, upon such conviction, the said court did adjudge and determine that the said ..... should pay a fine of \$..... (and, if imprisonment be adjudged add), ‘and be imprisoned in the county jail of the county of ....., for ..... days,’ (if the fine be paid, add), ‘and the said fine has been paid to me.’

Given under my hand this ..... day of ....., 19.....
J. P., Justice of the Peace.”

“EXECUTION

State of Minnesota }
County of ..... } ss.

The State of Minnesota, to the Sheriff or Any Constable of Said County:

Whereas, at a justice’s court held at my office, in said county, for the trial of ..... for the offense hereinafter stated, the said ..... was convicted of having, on the ..... day of ....., 19....., in said county (here state the offense as in the warrant), and, upon conviction, the said court did adjudge and determine that the said ..... should pay a fine of \$..... and costs; and, whereas, the said fine and costs have not been paid by the said ....., these are therefore to command you to levy distress on the personal property (etc., as in execution against such property in civil cases).

J. P., Justice of the Peace.”

“COMMITMENT ON SENTENCE

State of Minnesota }
County of ..... } ss.

The State of Minnesota, to Any Constable, and the Keeper of the Common Jail of Said County:

Whereas, at a justice’s court, held at my office in said county, for the trial of ..... for the offense hereinafter stated, the said ..... was convicted of having on the ..... day of ....., 19....., in the said county (here state the offense as in the warrant), and, upon conviction, the said court did adjudge and determine that the said ..... should be imprisoned in the common jail of said county for ..... days. Therefore, you, the said constable, are commanded forthwith to convey and deliver the said ..... to the said keeper; and you, the said keeper, are hereby commanded to receive the said ..... into your custody, in

MINNESOTA STATUTES 1941

the said jail, and him there safely keep until the expiration of said ..... days, or until he shall be thence discharged by due course of law.

Given under my hand this ..... day of ....., 19..... J. P., Justice of the Peace."

"COMMITMENT AFTER ARREST AND BEFORE TRIAL

State of Minnesota } County of ..... } ss.

The State of Minnesota, to the Sheriff or Any Constable, and to the Keeper of the Common Jail of Said County:

Whereas, ..... has been this day brought before the undersigned, one of the justices of the peace in and for said county, charged on the oath of ..... with having on the ..... day of ....., 19....., at ....., in said county (here state the offense as in the warrant); and, the said ..... not having given bail to appear and answer for the said offense, therefore, you, the said constable, are commanded forthwith to convey and deliver into the custody of the said keeper the body of the said ....., and you, the said keeper, are hereby commanded to receive the said ..... into your custody in the said jail, and him there safely keep until he shall be required to be brought before the court to be tried, or shall be otherwise discharged by due course of law.

Given under my hand this ..... day of ....., 19..... J. P., Justice of the Peace."

"ORDER TO BRING UP PRISONER

State of Minnesota } County of ..... } ss.

The State of Minnesota, to the Keeper of the Common Jail of Said County:

The undersigned, one of the justices of the peace in and for said county, sitting as a court for the trial of ....., now in your custody in the common jail of said county, do hereby order you to bring the said ..... forthwith before me, at my office in the ..... of ....., in said county, together with the warrant by which he was committed to your custody, in order that he may be tried.

Given under my hand this ..... day of ....., 19..... J. P., Justice of the Peace."

"COMMITMENT WHERE JUSTICE, ON THE TRIAL, FINDS HE HAS NOT JURISDICTION

State of Minnesota } County of ..... } ss.

The State of Minnesota, to the Sheriff or Any Constable of Said County:

Whereas, ....., of ....., has been brought this day before the undersigned, one of the justices of the peace of said county, charged on the oath of ..... with having on the ..... day of ....., 19....., at ....., in said county, committed the offense of (here state the offense charged in the warrant), and, in the progress of the trial on said charge, it appearing to the said justice that there is probable cause to believe that said ..... had been guilty of the offense of (here state the new offense found on the trial), committed at the time and place aforesaid, of which offense the said justice has not final jurisdiction; and, whereas, after examination had, in due form of law, touching the said charge and offense last aforesaid, the said justice did adjudge that the said offense had been committed, and that there was probable cause to believe the said ..... to be guilty thereof; and, whereas, the said ..... has not offered sufficient bail for his appearance to answer for said offense, you are therefore commanded forthwith to take the said ....., and him convey to the common jail of said county, the keeper whereof is hereby required to detain him in custody in said jail until he shall be thence discharged according to law.

Given under my hand this ..... day of ....., 19..... J. P., Justice of the Peace."