

## CHAPTER 596

## SUBPOENAS

**596.01 BY WHOM ISSUED.**

**HISTORY.** R.S. 1851 c. 95 s. 1; P.S. 1858 c. 84 s. 1; G.S. 1866 c. 73 s. 1; G.S. 1878 c. 73 s. 1; G.S. 1894 s. 5652; R.L. 1905 s. 4655; G.S. 1913 s. 8370; G.S. 1923 s. 9809; M.S. 1927 s. 9809.

Where testimony on which to base removal of a public officer is being taken before a commissioner, the officer may obtain subpoenas to compel the attendance of witnesses. *State v Peterson*, 50 M 347, 52 NW 655.

In proceedings before a state board, relative to revocation of license, witnesses may be called through subpoena. *Wolf v State Board*, 109 M 360, 123 NW 1074.

The city council of the city of Virginia has power to compel the attendance of witnesses. *State ex rel v Fitzgerald*, 131 M 116, 154 NW 750.

The statute authorizes the issuance of subpoenas by any clerk of court or justice of the peace for witnesses in removal proceedings pending before an administrative board or before a referee appointed by such board to conduct hearings. *State ex rel v State Board*, 213 M 185, 6 NW(2d) 251.

In a matter of soldier's preference, either an honorably discharged employee or the municipal body which is conducting the hearing may secure the issuance of subpoenas. 1942 OAG 119, March 6, 1942 (85e).

In a hearing before a referee in proceedings to remove a sheriff, the clerk of the district court may issue subpoenas. OAG Jan. 22, 1944 (144b-24).

Power of a trial judge to summon witnesses. 15 MLR 350.

Enforcement of subpoenas *Duces Tecum* by an administration agency. 28 MLR 261.

**596.02 HOW SERVED.**

**HISTORY.** R.S. 1851 c. 95 s. 2; P.S. 1858 c. 84 s. 2; G.S. 1866 c. 73 s. 2; G.S. 1878 c. 73 s. 2; G.S. 1894 s. 5653; R.L. 1905 s. 4656; G.S. 1913 s. 8371; G.S. 1923 s. 9810; M.S. 1927 s. 9810.

A subpoena to appear before a legislative committee must be served by an individual, and if sent by registered mail it is without effect. OAG Apr. 2, 1933.

**596.03 FAILURE TO ATTEND; DAMAGES.**

**HISTORY.** R.S. 1851 c. 69 s. 53; R.S. 1851 c. 95 s. 4; P.S. 1858 c. 59 s. 3; P.S. 1858 c. 84 s. 4; G.S. 1866 c. 65 s. 46; G.S. 1866 c. 73 s. 3; G.S. 1878 c. 65 s. 48; G.S. 1878 c. 73 s. 3; G.S. 1894 ss. 5002, 5654; R.L. 1905 s. 4657; G.S. 1913 s. 8372; G.S. 1923 s. 9811; M.S. 1927 s. 9811.

**596.04 CONTEMPT; PENALTY.**

**HISTORY.** R.S. 1851 c. 69 s. 149; R.S. 1851 c. 95 s. 5; P.S. 1858 c. 59 s. 162; P.S. 1858 c. 84 s. 5; G.S. 1866 c. 65 s. 128; G.S. 1866 c. 73 s. 4; G.S. 1878 c. 65 s. 137; G.S. 1878 c. 73 s. 4; G.S. 1894 ss. 5091, 5655; 1899 c. 207; R.L. 1905 s. 4658; G.S. 1913 s. 8373; G.S. 1923 s. 9812; M.S. 1927 s. 9812.

The constitutional and legislative provisions relative to home rule charters of cities and villages do not authorize a city to grant its city council the right to punish a witness called before it for contempt. *State ex rel v Fitzgerald*, 131 M 117, 154 NW 750.

# MINNESOTA STATUTES 1945 ANNOTATIONS

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## 596.05 ATTACHMENT OF WITNESS.

**HISTORY.** R.S. 1851 c. 95 s. 6; P.S. 1858 c. 84 s. 6; G.S. 1866 c. 73 s. 5; G.S. 1878 c. 73 s. 5; G.S. 1894 s. 5656; R.L. 1905 s. 4659; G.S. 1913 s. 8374; G.S. 1923 s. 9813; M.S. 1927 s. 9813.

To entitle a party to an attachment against a witness, he must have duly subpoenaed him. It is not enough that the opposite party had subpoenaed him, and had examined him in a previous stage of the trial. *Beaulieu v Parsons*, 2 M 37 (26).

There was no proof that the witness was not present, or that he had ever been subpoenaed, or his fees paid, or that his testimony was material, consequently the trial court did not err in refusing to continue the case so the witness could be attached. *Barnes v Christofferson*, 62 M 318, 64 NW 821.