

CHAPTER 619

CRIMES AGAINST THE PERSON

Sec.		Sec.	
619.01	Suicide, challenge, torture, and cruelty	619.35	Selling services of person kidnapped
	SUICIDE	619.36	Indictment; where triable; effect of consent of person injured
619.02	Aiding suicide		ASSAULT
619.03	Abetting attempt at suicide	619.37	Assault in first degree, how punished
619.04	Incapacity of person aided, no defense	619.38	Assault in second degree, how punished
	HOMICIDE	619.39	Assault in third degree, how punished
619.05	Homicide classified	619.40	Force or violence, when lawful
619.06	Proof of death, and of killing by defendant		ROBBERY
619.07	Murder in first degree	619.41	Robbery
619.08	Murder in second degree	619.42	In first degree, how punished
619.09	Duel fought out of state	619.43	In second degree, how punished
619.10	Murder in third degree	619.44	In third degree, how punished
619.13	Manslaughter	619.45	Life imprisonment for bank robbers
619.15	Manslaughter in first degree		DUELS
619.16	Killing of unborn child or mother	619.46	Duel and challenge, how punished
619.17	Manslaughter in first degree; penalty	619.47	Challenger or abettor
619.18	Manslaughter in second degree	619.48	Attempt to induce challenge; posting
619.19	Voluntary miscarriage; death of child	619.49	Duel outside state, where indictable
619.20	Negligent use of machinery	619.50	Witnesses
619.21	Death caused by mischievous animals		LIBEL AND SLANDER
619.22	Overloading passenger vessel	619.51	Libel; gross misdemeanor; punishment; prosecutions by county attorneys or attorney general
619.23	Reckless operation of steamboats and engines	619.52	How justified or excused; malice, when presumed
619.24	Physician when intoxicated	619.53	Publication
619.25	Keeping gunpowder unlawfully; death resulting	619.54	Liability of editors and others
619.26	Manslaughter in second degree; penalty	619.55	Reports of proceedings privileged
619.27	Excusable homicide	619.56	Where indicted; punishment restricted
619.28	Justifiable homicide by public officer	619.57	Privileged communications
619.29	Homicide by other person, justifiable when	619.58	Threatening to publish libel
	MAIMING	619.59	Slander of women
619.30	Maiming; how punished	619.60	Testimony necessary to convict
619.31	Maiming one's self to escape duty or obtain aims	619.61	False statements
619.32	Instrument or manner of maiming	619.62	Slander
619.33	Recovery from injury, when a defense	619.63	Certain statements unlawful
	KIDNAPPING		
619.34	Kidnapping; how punished		

619.01 SUICIDE, CHALLENGE, TORTURE, AND CRUELTY. Suicide is the intentional taking of one's own life. Any word spoken or written and any sign uttered or made to any person, expressing or implying, or intended to express or imply, a desire, request, invitation, or demand to fight a duel, or to meet for that purpose, or to engage in any prize fight, shall be deemed a challenge to such duel or prize fight. The word "torture" and the word "cruelty," when used in reference to the treatment of children, shall include every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted.

[R. L. s. 4869] (10061)

SUICIDE

619.02 AIDING SUICIDE. Every person who in any manner shall wilfully advise, encourage, abet, or assist another in taking the latter's life shall be guilty of manslaughter in the first degree.

[R. L. s. 4871] (10062)

619.03 ABETTING ATTEMPT AT SUICIDE. Every person who in any manner shall wilfully encourage, assist, or abet another person in attempting to take the latter's life shall be guilty of a felony.

[R. L. s. 4872] (10063)

619.04 INCAPACITY OF PERSON AIDED, NO DEFENSE. The fact that the person attempting to take his own life was incapable of committing crime shall not be a defense to prosecution under either section 619.02 or section 619.03.

[R. L. s. 4873] (10064)

HOMICIDE

619.05 HOMICIDE CLASSIFIED. Homicide is the killing of a human being by the act, procurement, or omission of another, and is either (1) murder; (2) manslaughter; (3) excusable homicide; or (4) justifiable homicide.

[R. L. s. 4874] (10065)

619.06 PROOF OF DEATH, AND OF KILLING BY DEFENDANT. No person shall be convicted of murder or manslaughter unless the death of the person alleged to have been killed, and the fact of killing by the defendant, as alleged, are each established as independent facts, the former by direct proof, and the latter beyond a reasonable doubt.

[R. L. s. 4875] (10066)

619.07 MURDER IN FIRST DEGREE. The killing of a human being, unless it is excusable or justifiable, is murder in the first degree, when perpetrated with a premeditated design to effect the death of the person killed or of another, and shall be punishable by imprisonment for life in the state prison.

[R. L. s. 4876; 1911 c. 387 s. 1] (10067)

619.08 MURDER IN SECOND DEGREE. Such killing of a human being, when committed with a design to effect the death of the person killed or of another, but without deliberation and premeditation, or when such killing is committed without a design to effect the death of the person killed or of another and without deliberation or premeditation by a person attempting to commit or engaged in the commission of rape, assault with an attempt to commit rape, indecent assault, or sodomy, or any thereof, either upon or affecting the person killed or otherwise, is murder in the second degree and shall be punished by imprisonment in the state prison for the offender's natural life.

All offenses committed, and all penalties and punishments incurred therefor, prior to April 19, 1941, shall be prosecuted and punished in the same manner and with the same effect as if the amendment made to this section by Laws 1941, Chapter 314, Section 1, had not been passed.

[R. L. s. 4877; 1941 c. 314 ss. 1, 3] (10068)

619.09 DUEL FOUGHT OUT OF STATE. Every person who, by previous appointment made within the state, fights a duel without the state, or by previous engagement made within or without the state, fights a duel within the state, and in so doing inflicts a wound upon his antagonist, whereof he dies, or who engages or participates in such a duel as a second or assistant to either party, shall be guilty of murder in the second degree.

[R. L. s. 4878] (10069)

619.10 MURDER IN THIRD DEGREE. Such killing of a human being, when perpetrated by act eminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect the death of any individual, or without a design to effect death, by a person engaged in the commission of, or in an attempt to commit, any felony, except rape, assault with an attempt to commit rape, indecent assault, or sodomy, either upon or affecting the person killed or otherwise, is murder in the third degree, and shall be punished by imprisonment in the state prison for not less than seven, nor more than 30, years.

All offenses committed, and all penalties and punishments incurred therefor, prior to April 19, 1941, shall be prosecuted and punished in the same manner and with the same effect as if the amendment made to this section by Laws 1941, Chapter 314, Section 2, had not been passed.

[R. L. s. 4879; 1941 c. 314 ss. 2, 3] (10070)

619.13 MANSLAUGHTER. In every case other than murder in the first, second, and third degrees, as in this chapter defined, homicide not excusable or justifiable is manslaughter.

[R. L. s. 4880] (10073)

619.14 [Superseded by 619.15]

619.15 MANSLAUGHTER IN FIRST DEGREE. Such homicide is manslaughter in the first degree when committed without a design to effect death:

- (1) By a person engaged in committing or attempting to commit a misdemeanor affecting the person or property, either of the person killed or of another;
- (2) In the heat of passion, but in a cruel and unusual manner, or by means of a dangerous weapon; or

- (3) By shooting another with a gun or other firearm when resulting from carelessness in mistaking the person shot for a deer or other animal.

[G. S. 1894 s. 6445; 1905 c. 125 s. 1] (10075)

619.16 KILLING OF UNBORN CHILD OR MOTHER. Every person who shall wilfully kill an unborn quick child by an injury inflicted upon the person of its mother, and every person who shall provide, supply, or administer to a woman, whether pregnant or not, or who shall prescribe for, advise, or procure a woman

to take any medicine, drug, or substance, or who shall use or employ, or cause to be used or employed, any instrument or other means, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve her life, or that of the child with which she is pregnant, and the death of the woman, or that of any quick child of which she is pregnant, is thereby produced, shall be guilty of manslaughter in the first degree.

[R. L. s. 4882; 1935 c. 108] (10076)

619.17 MANSLAUGHTER IN FIRST DEGREE; PENALTY. Manslaughter in the first degree shall be punished by imprisonment in the state prison for not less than five, nor more than 20, years.

[R. L. s. 4883] (10077)

619.18 MANSLAUGHTER IN SECOND DEGREE. Such homicide is manslaughter in the second degree when committed without a design to effect death:

(1) By a person committing or attempting to commit a trespass or other invasion of a private right, either of the person killed or of another, not amounting to a crime;

(2) In the heat of passion, but not by a deadly weapon or by use of means either cruel or unusual; or

(3) By any act, procurement, or culpable negligence of any person, which, according to the provisions of this chapter, does not constitute the crime of murder in the first or second degree, nor manslaughter in the first degree.

[R. L. s. 4884] (10078)

619.19 VOLUNTARY MISCARRIAGE; DEATH OF CHILD. Every woman quick with child, who shall take or use, or submit to the use of, any drug, medicine, or substance, or any instrument or other means, with intent to produce her own miscarriage, unless the same shall be necessary to preserve her own life, or that of the child of which she is pregnant, if the death of such child shall be thereby produced, shall be guilty of manslaughter in the second degree.

[R. L. s. 4885] (10079)

619.20 NEGLIGENCE USE OF MACHINERY. Every person who, by any act of negligence or misconduct in the business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind entrusted to his care or under his control, or by any unlawful, negligent, or reckless act not specified by or coming within the provisions of any other statute, occasions the death of a human being, shall be guilty of manslaughter in the second degree.

[R. L. s. 4886] (10080)

619.21 DEATH CAUSED BY MISCHIEVOUS ANIMALS. Every owner of a mischievous animal, who, knowing its propensities, shall wilfully or negligently suffer it to go at large, or keep it without ordinary care, and the animal, while so at large or kept, shall kill a human being, not himself in fault, shall be guilty of manslaughter in the second degree.

[R. L. s. 4887] (10081)

619.22 OVERLOADING PASSENGER VESSEL. Every person navigating a vessel for gain who shall wilfully or negligently receive so many passengers, or such quantity of other lading, on board, that by means thereof it shall sink, be overset or injured, and thereby a human being shall be drowned or otherwise killed, shall be guilty of manslaughter in the second degree. When, in such case, human life shall only be endangered, he shall be guilty of a misdemeanor.

[R. L. s. 4888] (10082)

619.23 RECKLESS OPERATION OF STEAMBOATS AND ENGINES. Every person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, shall create, or allow to be created, such an undue quantity of steam as to burst the boiler or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, and every engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam employed in a boat or railway, or in a manufactory or in any mechanical works, or otherwise, who wilfully or from ignorance or gross neglect shall create or allow to be created such an undue quantity

of steam as to burst the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human being shall be caused, shall be guilty of manslaughter in the second degree.

[R. L. s. 4889] (10083)

619.24 PHYSICIAN WHEN INTOXICATED. Every physician or surgeon, or person practicing as such, who, being in a state of intoxication, shall administer any poison, drug, or medicine, or do any other act as a physician, to another person, which, though done without a design to effect death, shall cause the death of the latter, shall be guilty of manslaughter in the second degree. When the life of the latter shall only be endangered or seriously affected thereby, he shall be guilty of a gross misdemeanor.

[R. L. s. 4890] (10084)

619.25 KEEPING GUNPOWDER UNLAWFULLY; DEATH RESULTING. Every person who shall make or keep gunpowder or any other explosive substance in a city or village, in any quantity or manner prohibited by law or by ordinance of such municipality, if any explosion thereof shall occur, whereby the death of a human being is occasioned, shall be guilty of manslaughter in the second degree.

[R. L. s. 4891] (10085)

619.26 MANSLAUGHTER IN SECOND DEGREE; PENALTY. Manslaughter in the second degree shall be punished by imprisonment in the state prison for not less than one year, nor more than 15 years, or by a fine of not more than \$1,000, or by both.

[R. L. s. 4892] (10086)

619.27 EXCUSABLE HOMICIDE. Homicide is excusable when committed by accident or misfortune in doing any lawful act, by lawful means, with ordinary caution, and without any unlawful intent.

[R. L. s. 4893] (10087)

619.28 JUSTIFIABLE HOMICIDE BY PUBLIC OFFICER. Homicide is justifiable when committed by a public officer, or person acting under his command and in his aid, in the following cases:

- (1) In obedience to the judgment of a competent court;
- (2) When necessary to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty;
- (3) When necessary in retaking an escaped or rescued prisoner who has been committed, arrested for, or convicted of, a felony, or in arresting a person who has committed a felony and is fleeing from justice, or in attempting by lawful ways or means to apprehend a person for a felony actually committed, or in lawfully suppressing a riot or preserving the peace.

[R. L. s. 4894] (10088)

619.29 HOMICIDE BY OTHER PERSON, JUSTIFIABLE WHEN. Homicide is also justifiable when committed:

- (1) In the lawful defense of the slayer, or of his or her husband, wife, parent, child, brother, sister, master, or servant, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony, or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished; or
- (2) In the actual resistance of an attempt to commit a felony upon the slayer, in his presence, or upon or in a dwelling or other place of abode in which he is.

[R. L. s. 4895] (10089)

MAIMING

619.30 MAIMING, HOW PUNISHED. Every person who, with intent to commit a felony, or to injure, disfigure, or disable another, shall wilfully inflict upon him an injury which:

- (1) Seriously disfigures his person by any mutilation thereof;
- (2) Destroys or disables any member or organ of his body; or
- (3) Seriously diminishes his physical vigor by the injury of any member or organ —

Shall be guilty of maiming, and be punished by imprisonment in the state prison for not less than one year, nor more than 15 years, and the infliction of the injury shall be prima facie evidence of the intent.

[R. L. s. 4896] (10090)

619.31 MAIMING ONE'S SELF TO ESCAPE DUTY OR OBTAIN ALMS. Every person who, with design to disable himself from performing a legal duty, existing or anticipated, shall inflict upon himself an injury whereby he is so disabled, and every person who shall so injure himself with intent to avail himself of such injury to excite sympathy or to obtain alms or some charitable relief, shall be guilty of a felony.

[R. L. s. 4897] (10091)

619.32 INSTRUMENT OR MANNER OF MAIMING. To constitute maiming, is immaterial by what means or instrument or in what manner the injury was inflicted.

[R. L. s. 4898] (10092)

619.33 RECOVERY FROM INJURY, WHEN A DEFENSE. When, upon a trial for maiming another person, it shall appear that the injured person has so far recovered that he is no longer disfigured in personal appearance, disabled in any member or organ of his body, or affected in physical vigor, no conviction for maiming shall be had; but the defendant may be convicted of assault in any degree.

[R. L. s. 4899] (10093)

KIDNAPPING

619.34 KIDNAPPING, HOW PUNISHED. Every person who shall wilfully:

(1) Seize, confine, or inveigle another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within the state, or sent out of it, to be sold as a slave, or in any way held to service, or kept or detained against his will;

(2) Lead, take, entice, or detain a child under the age of 16 years, with intent to keep or conceal him from his parents, guardian, or other person having lawful care or control of him, or to extort or obtain money or reward for his return or disposition, or with intent to steal any article from his person; or

(3) Abduct, entice, or, by force or fraud, unlawfully take or carry away another, at or from a place without the state, or procure, advise, aid, or abet such abduction, enticing, taking, or carrying away, and shall afterwards send, bring, or keep such person, or cause him to be kept or secreted, within this state—

Shall be guilty of kidnapping and punished by imprisonment in the state prison for not more than 40 years.

[R. L. s. 4900; 1909 c. 325 s. 1] (10094)

619.35 SELLING SERVICES OF PERSON KIDNAPPED. Every person who, within this state or elsewhere, shall sell or in any manner transfer for any term the services or labor of any person who has been forcibly taken, inveigled, or kidnapped in or from the state, shall be punished by imprisonment in the state prison for not more than ten years.

[R. L. s. 4901] (10095)

619.36 INDICTMENT; WHERE TRIABLE; EFFECT OF CONSENT OF PERSON INJURED. Every indictment for kidnapping may be found and tried either in the county where the offense was committed, or in any county through or in which the person kidnapped or confined was taken or kept while under confinement or restraint. Upon a trial for violation of sections 619.34 and 619.35, the consent thereto of the person kidnapped or confined shall not be a defense, unless it appears satisfactorily to the jury that such person was above the age of 16 years, and that his consent was not extorted by threats or duress.

[R. L. s. 4902] (10096)

ASSAULT

619.37 ASSAULT IN FIRST DEGREE, HOW PUNISHED. Every person who, with intent to kill a human being or to commit a felony upon the person or property of the one assaulted or of another:

(1) Shall assault another with a loaded firearm or any other deadly weapon, or by any force or means likely to produce death; or

(2) Shall administer or cause to be administered to, or taken by, another, poison or any other destructive or noxious thing, so as to endanger the life of such other person—

Shall be guilty of assault in the first degree, and be punished by imprisonment in the state prison for not less than five, nor more than ten, years.

[R. L. s. 4903] (10097)

619.38 ASSAULT IN SECOND DEGREE, HOW PUNISHED. Every person who, under circumstances not amounting to assault in the first degree:

(1) With intent to injure, shall unlawfully administer or cause to be administered to, or taken by, another, poison or any other destructive or noxious thing, or any drug or medicine, the use of which is dangerous to life or health;

(2) With intent thereby to enable or assist himself or any other person to commit any crime, shall administer or cause to be administered to, or taken by, another, chloroform, ether, laudanum, or any other intoxicating narcotic or anaesthetic;

(3) Shall wilfully and wrongfully wound or inflict grievous bodily harm upon another, with or without a weapon;

(4) Shall wilfully and wrongfully assault another with a weapon or other instrument or thing likely to produce grievous bodily harm; or

(5) Shall assault another with intent to commit a felony, or to prevent or resist the execution of any lawful process or mandate of any court, or officer, or the lawful apprehension or detention of himself or of any other person—

Shall be guilty of an assault in the second degree, and be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than \$1,000, or by both.

[R. L. s. 4904] (10098)

619.39 ASSAULT IN THIRD DEGREE, HOW PUNISHED. Every person who shall commit an assault, or an assault and battery, not amounting to an assault in the first or second degree, shall be guilty of an assault in the third degree, and be punished by imprisonment in a county jail for not more than three months, or by a fine of not more than \$100.

[R. L. s. 4905] (10099)

619.40 FORCE OR VIOLENCE, WHEN LAWFUL. The use, attempt, or offer to use force or violence upon or toward the person of another shall not be unlawful in the following cases:

(1) When necessarily used by a public officer in the performance of a legal duty, or a person assisting him and acting under his direction;

(2) When necessarily used by a person arresting one who has committed a felony, and delivering him to a public officer competent to receive him into custody;

(3) When used by a party about to be injured, or by another lawfully aiding him, in preventing or attempting to prevent an offense against his person, or a trespass or other unlawful interference with real or personal property lawfully in his possession, in case the force is not more than shall be necessary;

(4) When used in a reasonable and moderate manner by a parent or his authorized agent, a guardian, master, or teacher, in the exercise of lawful authority, to restrain or correct his child, ward, apprentice, or scholar;

(5) When used by a carrier of passengers or his authorized agent or servant, or other person assisting them at their request, in expelling from a carriage, railway car, vessel, or other vehicle a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is no more than shall be necessary to expel the offender, with reasonable regard to his personal safety;

(6) When used by any person to prevent an idiot, lunatic, or insane person from committing any act dangerous to himself or another, or in enforcing necessary restraint for the protection of his person or his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his person.

[R. L. s. 4906] (10100)

ROBBERY

619.41 DEFINITION. Robbery is the unlawful taking of personal property from the person of another or in his presence, against his will, by means of force or violence, or fear of injury, immediate or future, to his person or property, or the person or property of a relative or member of his family, or of any one in his company at the time of the robbery. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking; in either of which cases the degree of force used is immaterial. If used merely as a means of escape, it does not constitute robbery. Such taking from the person of

another constitutes robbery when it appears that, although the taking was fully completed without his knowledge, such knowledge was prevented by the use of force or fear.

[R. L. s. 4907] (10101)

619.42 IN FIRST DEGREE, HOW PUNISHED. Every such unlawful taking, if accompanied by force or fear, in any case specified in section 619.41, shall be robbery in the first degree:

- (1) When committed by a person armed with a dangerous weapon; or
- (2) By a person aided by an accomplice actually present; or
- (3) When the offender, in order to accomplish the robbery, shall inflict grievous bodily harm or injury upon the person from whose possession, or in whose presence, the property is taken, or upon his spouse, parent, child, servant, or member of his family, or any one in his company at the time—

And shall be punished by imprisonment in the state prison for not less than five, nor more than 40, years.

[R. L. s. 4908; 1905 c. 114 s. 1] (10102, 10103)

619.43 IN SECOND DEGREE, HOW PUNISHED. Such unlawful taking, when accomplished by force or fear, in a case specified in sections 619.41 and 619.42, but not under circumstances amounting to robbery in the first degree, shall be robbery in the second degree when accomplished:

- (1) By the use of violence; or
- (2) By putting the person robbed in fear of immediate injury to his person, or that of some one in his company—

And shall be punished by imprisonment in the state prison for not less than two, nor more than 15, years.

[R. L. s. 4909] (10104)

619.44 IN THIRD DEGREE, HOW PUNISHED. Every person who shall rob another, under circumstances not amounting to robbery in the first or second degree, shall be guilty of robbery in the third degree, and be punished by imprisonment in the state prison for not more than ten years.

[R. L. s. 4910] (10105)

619.45 LIFE IMPRISONMENT FOR BANK ROBBERS. Every person who, with intent to commit a felony therein by means of threats, force, or violence, shall enter, at any time, any room wherein, in whole or in part, a general banking business is carried on, or any room wherein, in whole or in part, the business of receiving securities, evidence of debt or any other valuable papers for deposit or safe-keeping is carried on, or wherein, in whole or in part, a business of general banking and receiving securities, evidence of debt or any other valuable papers, on deposit or for safe-keeping, is carried on, in which room there shall be at the time a human being, shall be guilty of a felony and punished by imprisonment for life in the state prison.

[Ex. 1919 c. 10 s. 1] (10106)

DUELS

619.46 DUEL AND CHALLENGE, HOW PUNISHED. Every person who shall fight a duel, or engage in any combat with another with a deadly weapon, by previous agreement or upon a previous quarrel, although no death or wound shall ensue, shall be punished by imprisonment in the state prison for not less than two, nor more than ten, years. Upon conviction he shall thereafter be incapable of holding, or of being elected or appointed to, any office or place of trust or emolument, civil or military.

[R. L. s. 4911] (10107)

619.47 CHALLENGER OR ABETTOR. Every person who shall challenge another to fight a duel, or who shall send a written or verbal message purporting or intended to be a challenge to fight a duel, or an invitation to a combat with deadly weapons, or who accepts such a challenge or message, or who knowingly carries or delivers such challenge or message, or is present at the time appointed for such duel or combat, or when the same is fought, either as second, aid, or surgeon, or who advises or abets, or gives any countenance or assistance to, such duel or combat upon previous agreement, shall be punished by imprisonment in the state prison for not more than seven years.

[R. L. s. 4912] (10108)

619.48 ATTEMPT TO INDUCE CHALLENGE; POSTING. Every person who shall send or use to another any word or sign with intent to provoke or induce such person to give or receive a challenge to fight a duel, or who shall post or advertise another for not fighting a duel, or for not sending or accepting a challenge to fight a duel, or who, in writing or in print, shall use reproachful or contemptuous language to or concerning any one for not sending or accepting a challenge to fight a duel, or for not fighting a duel, shall be guilty of a gross misdemeanor.

[R. L. s. 4913] (10109)

619.49 DUEL OUTSIDE STATE, WHERE INDICTABLE. Every person who leaves the state with intent to elude any provision of law contained in sections 619.46 to 619.48, or to commit any act outside of the state, punished by the provisions thereof if committed in the state, shall be guilty of the same offense and subject to the same punishment as if the act had been committed or was to have been consummated in the state, and may be indicted and tried in any county therein; but he may plead a former conviction or acquittal in another state or country for the same offense, which, if established, shall be a bar to further proceedings against him for such offense.

[R. L. s. 4914] (10110)

619.50 WITNESSES. Every person offending against any provision contained in sections 619.46 to 619.49 shall be a competent witness against any other offender in the same transaction, and shall not be excused from testifying or answering any question upon any investigation or trial of any offense thereunder, upon the ground that his testimony might tend to convict him of a crime.

[R. L. s. 4915] (10111)

LIBEL AND SLANDER

619.51 LIBEL; GROSS MISDEMEANOR; PUNISHMENT; PROSECUTIONS BY COUNTY ATTORNEYS OR ATTORNEY GENERAL. Every malicious publication, by writing, printing, picture, effigy, sign, or otherwise than by mere speech, which shall expose any living person, or the memory of one deceased, to hatred, contempt, ridicule, or obloquy, or which shall cause or tend to cause any person to be shunned or avoided, or which shall have a tendency to injure any person, corporation, or association of persons in his or their business or occupation, shall be a libel. Every person who publishes a libel shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not less than \$100, and not more than \$1,000, or by imprisonment in the county jail for not more than six months.

It shall be the duty of the county attorney of any county where any such offense was committed to prosecute the offender or offenders.

In any case wherein the county attorney shall fail or refuse to commence a prosecution upon the complaint of the person claiming to have been libeled, the attorney general may commence such prosecution and carry it to final conclusion, or on application the court may appoint an attorney to prosecute.

[R. L. s. 4916; 1925 c. 364 s. 1] (10112)

619.52 HOW JUSTIFIED OR EXCUSED; MALICE, WHEN PRESUMED. Every publication having the tendency or effect mentioned in section 619.51 shall be deemed malicious if no justification or excuse therefor is shown. Such publication is justified when the matter charged as libelous is true and was published with good motives and for justifiable ends. It is excused when honestly made, in belief of its truth, and upon reasonable grounds for such belief, and consists of fair comments upon the conduct of a person in respect of public affairs.

[R. L. s. 4917] (10113)

619.53 PUBLICATION. To sustain the charge of publishing a libel it is not necessary that the matter complained of should have been seen by another. It is enough that the defendant knowingly displayed it, or parted with its immediate custody, under circumstances which exposed it to be seen or understood by a person other than himself.

[R. L. s. 4918] (10114)

619.54 LIABILITY OF EDITORS AND OTHERS. Every editor or proprietor of a book, newspaper, or serial, and every manager of a copartnership or corporation by which any book, newspaper, or serial is issued, is chargeable with the publication of any matter contained in such book, newspaper, or serial. In every prosecution for libel the defendant may show in his defense that the matter com-

plained of was published without his knowledge or fault, and against his wishes, by another who had no authority from him to make such publication, and whose act was disavowed by him as soon as known.

[R. L. s. 4919] (10115)

619.55 REPORTS OF PROCEEDINGS PRIVILEGED. No prosecution for libel shall be maintained against a reporter, editor, publisher, or proprietor of a newspaper for the publication therein of a fair and true report of any judicial, legislative, or other public and official proceeding, or of any statement, speech, argument, or debate in the course of the same, without proving actual malice in making the report. The foregoing shall not apply to a libel contained in the heading of the report, or in any matter added by another person concerned in the publication, or in the report of anything said or done at the time and place of the public and official proceeding, which was not a part thereof.

[R. L. s. 4920] (10116)

619.56 WHERE INDICTED; PUNISHMENT RESTRICTED. Every indictment for a libel contained in a newspaper published in the state may be found in any county where the paper was published or circulated, but a person shall not be indicted or tried for the publication of the same libel against the same person in more than one county.

[R. L. s. 4921] (10117)

619.57 PRIVILEGED COMMUNICATIONS. Every communication made to a person entitled to or interested in such communication, by one also interested in or entitled to make it, or who stood in such relation to the former as to afford a reasonable ground for supposing his motive innocent, shall be presumed not to be malicious, and shall be termed a privileged communication.

[R. L. s. 4922] (10118)

619.58 THREATENING TO PUBLISH LIBEL. Every person who shall threaten another with the publication of a libel concerning the latter or his spouse, parent, child, or other member of his family, and every person who offers to prevent the publication of a libel upon another person on condition of the payment of, or with intent to extort, money or other valuable consideration from any person, shall be guilty of a gross misdemeanor.

[R. L. s. 4923] (10119)

619.59 SLANDER OF WOMEN. Every person who, in the presence and hearing of another, other than the female slandered, whether she be present or not, shall maliciously speak of or concerning any female of the age of 12 years or upwards, not a public prostitute, any false or defamatory words or language which shall injure or impair the reputation of such female for virtue or chastity, or which shall expose her to hatred, contempt, or ridicule, shall be guilty of a misdemeanor. Every slander herein mentioned shall be deemed malicious if no justification therefor be shown, and shall be justified when the language charged as slanderous, false, or defamatory is true, and was spoken with good motives and for justifiable ends.

[R. L. s. 4924] (10120)

619.60 TESTIMONY NECESSARY TO CONVICT. No conviction shall be had under the provisions of section 619.59 upon the testimony of the woman slandered, unsupported by other evidence, but must be proved by the evidence of at least two persons other than such woman, who heard and understood the language charged as slanderous, or by the admission of the defendant.

[R. L. s. 4925] (10121)

619.61 FALSE STATEMENTS. Any person who knowingly, wilfully, and maliciously states, delivers, or transmits by any means to any manager, editor, publisher, reporter, or other employee of a publisher of any newspaper, magazine, publication, periodical, or serial, any false and untrue statement concerning any person or corporation, with intent that the same shall be published, is guilty of a misdemeanor.

[1923 c. 7 s. 1] (10122)

619.62 SLANDER. Every person who, in the presence and hearing of another, other than the person slandered, whether he be present or not, shall speak of or concerning any person, any false or defamatory words or language which shall

MINNESOTA STATUTES 1949

4039

CRIMES AGAINST THE PERSON 619.63

injure or impair the reputation of such person for virtue or chastity, or which shall expose him to hatred, contempt, or ridicule, shall be guilty of a misdemeanor. Every slander herein mentioned shall be deemed malicious if no justification therefor be shown, and shall be justified when the language charged as slanderous, false, or defamatory was true and was spoken with good motives and for justifiable ends.

[1915 c. 284 s. 1] (10123)

619.63 CERTAIN STATEMENTS UNLAWFUL. Subdivision 1. **Regarding banks and savings institutions.** It shall be unlawful for any person, firm, or corporation to falsely and maliciously state, utter, publish, or cause to be falsely and maliciously stated, uttered, or published, any report, rumor, or statement directly or indirectly tending to disclose that any bank, public or savings institution is in an existing or probable insolvent financial condition.

Subd. 2. **Penalty.** Any person, firm, or corporation violating any of the provisions of subdivision 1 shall be guilty of a gross misdemeanor, and shall be punished by imprisonment in the county jail of any county wherein such false, slanderous declarations are made or published, for a term of not less than 30 days nor more than six months or by a fine of not less than \$100 or by both.

[1929 c 212 s 1, 2] (10123-4, 10123-5)