

MINNESOTA STATUTES 1953 ANNOTATIONS

640.01 STATE PRISON AND REFORMATORIES

1654

The record of a pardon kept in the governor's office pursuant to statute was an original record and could not be collaterally attacked in habeas corpus proceedings by a prisoner to obtain his release from prison after his commutation was revoked. *Guy v Utech*, 229 M 58, 38 NW(2d) 59.

INCARCERATION

CHAPTER 640

STATE PRISON AND REFORMATORIES

STATE PRISON

640.01 STATE PRISON; LOCATION AND MANAGEMENT

HISTORY. 1853 c 12 s 1, 5; 1857 c 45 s 1; 1858 c 34 s 1, 2; PS 1858 c 119 s 38, 39; 1862 c 63 s 3; 1863 c 6 s 1, 2, 21-25; 1866 c 10 s 1; GS 1866 c 120 s 25, 26, 45; 1870 c 39 s 1; 1871 c 47 s 1; 1873 c 137 s 2, 3; 1874 c 16 s 1; 1874 c 17 s 1-9; GS 1878 c 120 s 25, 26, 47; 1889 c 254 s 1, 9, 23; GS 1894 s 7449; RL 1905 s 5432; GS 1913 s 9289; 1939 c 431 art 7 s 3.

640.04 USE OF FUND

In the absence of statutory authority the state prison authorities cannot purchase farm lands. Laws 1949, Chapter 728, Section 19, confers no such authority. OAG July 5, 1950 (9-A-39).

640.10 COMMITMENT PAPERS; DUTY OF CLERK AND OFFICER

HISTORY. 1853 c 12 s 14; 1857 c 45 s 1; 1863 c 6 s 43; GS 1866 c 120 s 67; GS 1878 c 120 s 70; 1887 c 208 s 12; GS 1878 Vol 2 (1888 Supp) c 35 s 53(20); 1889 c 254 s 2; 1893 c 9 s 2; 1893 c 114 s 1; 1894 s 3592, 7476, 7508; RL 1905 s 5436; 1911 c 228 s 1; GS 1913 s 9298.

The United States constitution does not require a state to provide the expenses of an appeal for an indigent defendant in a criminal case, and the constitution and statutes of Minnesota neither compel nor authorize such procedure. *State v Lorenz*, 235 M 221, 50 NW(2d) 270.

The court has authority to appoint an attorney for a defendant who acted as his own attorney and was convicted, for the purpose of taking such further proceedings in case as the attorney so appointed may consider advisable. OAG Jan. 30, 1948 (799-K).

640.20 COMMUNICATION WITH CONVICTS

Notwithstanding the provisions of sections 246.01 and 640.20, a prisoner incarcerated in a state prison may: (1) communicate with his attorney and send him briefs; (2) communicate with any judge before whom he has a case pending, and send him briefs; (3) send out petitions for habeas corpus to any judge having jurisdiction thereof, and may send briefs; and, (4) send out briefs relating to an appeal in the case in which he was convicted even though no appeal is pending and the time to appeal has expired. OAG Jan. 20, 1948 (342).

While the utmost freedom is allowed a prisoner in communicating with his attorney and the trial judge, including exchange of briefs, a prisoner cannot without the consent of the warden, correspond in relation to an appeal when no appeal is pending and the time to appeal has expired. OAG Jan. 20, 1948 (342).

MINNESOTA STATUTES 1953 ANNOTATIONS

1655

STATE PRISON AND REFORMATORIES 640.49

640.21 VOCATION OF CONVICT; EXAMINATION BY COURT

HISTORY. 1887 c 166; 1887 c 197; 1889 c 255 s 1-16; GS 1894 s 7491-7506; 1895 c 154 s 1, 2; RL 1905 s 5446; GS 1913 s 9310.

640.26 NUMBER EMPLOYED IN ONE INDUSTRY

HISTORY. 1895 c 94; RL 1905 s 5449; 1907 c 71 s 1; 1941 c 334 s 1.

640.27 MACHINERY MANUFACTURE; STATE PRISON

HISTORY. 1907 c 49 s 1; 1913 c 144 s 1; 1923 c 294 s 1; 1927 c 172 s 1; 1929 c 348 s 1; 1953 c 394 s 1.

640.31 COMPENSATION PAID TO PRISONERS

A prison warden or a reformatory superintendent is without authority to charge an insane inmate and deduct from the inmate's fund for the value of state-owned items intentionally destroyed by the inmate. OAG May 16, 1952 (91-I).

640.33 PAY OF GUARDS

A warden conveying a convict from Minnesota state prison to another penal institution in the state, or to a court, acts as prison warden and not as a deputy sheriff and is not entitled to sheriff's mileage. OAG May 5, 1949 (342-G).

STATE REFORMATORY

640.34 STATE REFORMATORY

HISTORY. 1887 c 208 s 1-8; GS 1894 s 3581-3588; RL 1905 s 5453; 1945 c 565 s 4; 1947 c 80 s 1; 1949 c 127 s 1; 1951 c 292 s 1; 1953 c 255 s 1.

Under the provisions of Laws 1945, Chapter 575, Section 19, and Laws 1947, Chapter 582, Sections 16, 22, it is permissible to use available funds in the diversified labor account to supplement the appropriation set up as a revolving account for the manufacture of license plates. OAG March 12, 1948 (9-A-10).

Money appropriated to the secretary of state by Laws 1947, Chapter 634, Section 12, Clause (5), may be used only for the purchase of motor license plates made by the state reformatory at St. Cloud. OAG Dec. 23, 1947 (9-A-26).

As of May 26, 1948, the reception center created by the order of the youth conservation commission at the St. Cloud reformatory is not a part of the reformatory but is merely a place of detention for convenience of the commission. OAG May 26, 1948 (145-B-1).

EMPLOYMENT IN CONSERVATION WORK

640.44 CONVICTS TO DO CONSERVATION WORK

The St. Peter state hospital, in the exercise of its discretion, may use convict labor for the purpose of improving the grounds owned by the institution. OAG Dec. 16, 1947 (91-I).

REFORMATORY FOR WOMEN

640.49 ESTABLISHMENT

Buildings and facilities not used for inmates of the reformatory for women at Shakopee, with the consent of the director of public institutions, may be made available for the youth conservation commission. OAG Sept. 9, 1947 (88-K-26).

MINNESOTA STATUTES 1953 ANNOTATIONS

640.51 STATE PRISON AND REFORMATORIES

1656

640.51 FINANCIAL CONTROL, GENERAL SUPERVISION

HISTORY. 1915 c 324 s 5; 1949 c 259 s 1; 1951 c 713 s 36.

Inmates of the state reformatory at Shakopee cannot be transferred to the St. Cloud reformatory. Buildings and facilities not used at the Shakopee reformatory may, upon the authority of the director of public institutions and with the consent of the governor, be used by the youth conservation commission. OAG Sept. 9, 1947 (88-A-26).

GENERAL PROVISIONS

640.52 SHERIFF, EXPENSES CONVEYING CONVICTS

HISTORY. Amended, 1951 c 339 s 3.

Executive secretary of a county welfare board cannot draw compensation for the use of a car in transporting a patient to the Minnesota general hospitals. OAG Nov. 25, 1947 (125-A-64).

If a parolee from the state prison or reformatory is ordered by the board of parole to be retaken and placed in custody, the expenses therefor must be paid out of the parole board fund, and the sheriff must direct his bill for services and expenses to the board. OAG March 28, 1951 (390-C-9).

Neither deputies nor deputy sheriffs who receive salaries are entitled to a per diem for conveying persons to the state prison or the reformatory. OAG May 13, 1952 (390-C-9).

Laws 1947, Chapter 595, created a conservation commission, and subdivision 19 thereof grants authority to the commission over felons to it committed; but no provision is made for disbursement of state funds for conveying convict from the county where convicted to a reception center. The sheriff for his expenses must rely upon the county. OAG April 16, 1948 (390-C-12).

If a youth is committed to the youth conservation commission upon conviction of a felony or gross misdemeanor and the commission orders his confinement within the state reformatory for men, under provisions of section 260.125, subdivision 19, the youth is entitled to the benefits of the provisions of section 640.53 for diminishing his sentence by good behavior. OAG Nov. 19, 1948 (145-B-1).

Persons committed to the youth conservation commission and thereafter by a commission order confined in a reformatory or prison may diminish the period of confinement by good behavior. OAG June 2, 1952 (145-B-1).

When a person has not been released by the parole board as a parolee from a penal institution but by the board of pardons, through commutation of sentence or otherwise, or has been conditionally discharged or paroled by the board of parole and is later returned to the penal institution from which he was released for violation of the conditions of his release, the time during which he was so at liberty should not be counted as part of his sentence. The board of parole has power where justice requires it, to release a prisoner from such rule. OAG Aug. 4, 1953 (328-A-4).

A prisoner in a state reformatory who is to be allowed a credit for the time he was confined in a county jail awaiting sentence should be given good conduct credit for that period of time as if he had been in the reformatory instead of the county jail. OAG Sept. 23, 1947 (341-K-10).