

THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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CHAPTER 105.

ARRESTS.

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(1) GENERAL PROVISIONS.

§ 7110. Arrest defined.

Arrest is the taking of a person into custody, that he may be held to answer for a public offence.

(G. S. 1866, c. 105, § 1; G. S. 1878, c. 105, § 1.)

§ 7111. By whom made.

An arrest may be either:

First. By a peace officer, under a warrant;

Second. By a peace officer without a warrant;

Third. By a private person.

(G. S. 1866, c. 105, § 2; G. S. 1878, c. 105, § 2.)

§ 7112. Who must aid officer.

Every person must aid an officer in the execution of a warrant, if the officer requires his aid, and is present and acting in its execution.

(G. S. 1866, c. 105, § 3; G. S. 1878, c. 105, § 3.)

§ 7113. When arrest may be made.

If the offence charged is a felony, the arrest may be made on any day, and at any time of the day or night; if it is a misdemeanor, the arrest cannot be made on Sunday or at night, unless upon the direction of the magistrate indorsed upon the warrant.

(G. S. 1866, c. 105, § 4; G. S. 1878, c. 105, § 4.)

§ 7114. Arrest, how made.

An arrest is made by an actual restraint of the person of the defendant, or by his submission to the custody of the officer.

(G. S. 1866, c. 105, § 5; G. S. 1878, c. 105, § 5.)

§ 7115. Unnecessary restraint forbidden.

The defendant shall not be subjected to any more restraint than is necessary for his arrest and detention.

(G. S. 1866, c. 105, § 6; G. S. 1878, c. 105, § 6.)

§ 7116. Officer shall disclose his authority.

The officer shall inform the defendant that he acts under the authority of the warrant, and show the warrant if required.

(G. S. 1866, c. 105, § 7; G. S. 1878, c. 105, § 7.)

§ 7117. May use necessary means to effect arrest.

If, after notice of intention to arrest the defendant, he either flees or forcibly resists, the officer may use all necessary means to effect the arrest.

(G. S. 1866, c. 105, § 8; G. S. 1878, c. 105, § 8.)

§ 7118. May break door or window, when.

An officer may break open an inner or outer door or window of a dwelling-house, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance.

(G. S. 1866, c. 105, § 9; G. S. 1878, c. 105, § 9.)

§ 7119. May break door or window to liberate himself or another.

An officer may break open an inner or outer door or window of a dwelling-house, when necessary for his own liberation, or for the purpose of liberating a person who, having entered to make an arrest, is detained therein.

(G. S. 1866, c. 105, § 10; G. S. 1878, c. 105, § 10.)

(2) ARREST BY AN OFFICER WITHOUT A WARRANT.

§ 7120. When arrest may be made without warrant.

A peace-officer may, without a warrant, arrest a person:

First. For a public offence committed or attempted in his presence;

Second. When a person arrested has committed a felony, although not in his presence;

Third. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it;

Fourth. On a charge made, upon reasonable cause, of the commission of a felony by the party arrested.

(G. S. 1866, c. 105, § 11; G. S. 1878, c. 105, § 11.)

SUBD. 1. To authorize an arrest by a peace-officer without a warrant, for an offense not a felony, under this subdivision, it must be made at the time; that is, the officer must at once set about the arrest, and follow up the effort till it is made. Five hours having intervened during which the officer was not about anything connected with the arrest, the authority to arrest ceased. *Wahl v. Walton*, 30 Minn. 506, 16 N. W. Rep. 397.

See *State v. Cantieny*, 34 Minn. 1, 8, 24 N. W. Rep. 458; *Warner v. Grace*, 14 Minn. 487, (Gil. 364, 367.)

§ 7121. Officer without warrant may break door or window, when.

To make an arrest as provided in the last section, the officer may break open an outer or inner door or window of a dwelling-house, if, after notice of his office and purpose, he is refused admittance.

(G. S. 1866, c. 105, § 12; G. S. 1878, c. 105, § 12.)

§ 7122. May arrest at night, when.

He may also at night, without a warrant, arrest any person whom he has reasonable cause for believing to have committed a felony, and is justified in making the arrest, though it afterwards appears that a felony has not been committed.

(G. S. 1866, c. 105, § 13; G. S. 1878, c. 105, § 13.)

§ 7123. Shall disclose authority and cause of arrest—Exception.

When arresting a person without a warrant, the officer shall inform him of his authority, and the cause of the arrest, except when he is in the actual commission of a public offence, or is pursued immediately after an escape.

(G. S. 1866, c. 105, § 14; G. S. 1878, c. 105, § 14.)

§ 7124. May take person arrested by bystander before magistrate.

He may take before a magistrate a person who, being engaged in a breach of the peace, is arrested by a bystander, and delivered to him.

(G. S. 1866, c. 105, § 15; G. S. 1878, c. 105, § 15.)

§ 7125. Magistrate may command any person to arrest, when.

When a public offence is committed in the presence of a magistrate, he may, by a verbal or written order, command any person to arrest the offender, and may thereupon proceed as if the offender had been brought before him on a warrant of arrest.

(G. S. 1866, c. 105, § 16; G. S. 1878, c. 105, § 16.)

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BY A PRIVATE PERSON.

§§ 7126-7131

(3) ARREST BY A PRIVATE PERSON.

§ 7126. Private person may arrest, when.

A private person may arrest another:

First. For a public offence committed or attempted in his presence;

Second. When a person arrested has committed a felony, although not in his presence;

Third. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.

(G. S. 1866, c. 105, § 17; G. S. 1878, c. 105, § 17.)

See *Kennedy v. State*, (Ind.) 6 N. E. Rep. 305; *Morley v. Chase*, (Mass.) 9 N. E. Rep. 767; *Judson v. Reardon*, 16 Minn. 431, (Gil. 387.)

§ 7127. Shall disclose cause of arrest.

He shall, before making the arrest, inform the person to be arrested of the cause thereof, and require him to submit, except when he is in the actual commission of the offence, or when he is arrested on pursuit immediately after its commission.

(G. S. 1866, c. 105, § 18; G. S. 1878, c. 105, § 18.)

§ 7128. May break door or window, when.

If the person to be arrested had committed a felony, and a private person, after notice of his intention to make the arrest, is refused admittance, he may break open an outer or inner door or window of a dwelling-house, for the purpose of making the same.

(G. S. 1866, c. 105, § 19; G. S. 1878, c. 105, § 19.)

§ 7129. Shall take party arrested to magistrate or officer.

A private person who has arrested another for the commission of a public offence, shall, without unnecessary delay, take him before a magistrate, or deliver him to a peace-officer.

(G. S. 1866, c. 105, § 20; G. S. 1878, c. 105, § 20.)

See *Judson v. Reardon*, 16 Minn. 431, (Gil. 387.)

§ 7130. Person under arrest, escaping, may be retaken.

If a person arrested escapes or is rescued, the person from whose custody he has escaped, or was rescued, may immediately pursue and retake him, at any time and in any place in the state.

(G. S. 1866, c. 105, § 21; G. S. 1878, c. 105, § 21.)

§ 7131. Pursuer may break door or window, when.

To retake a person escaping or rescued, the person pursuing may, after notice of his intention, and refusal of admittance, break open an outer or inner door or window of a dwelling-house.

(G. S. 1866, c. 105, § 22; G. S. 1878, c. 105, § 22.)

(1877)