

1938 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1938)  
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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duly constituted authorities, in reference to reciprocal supervision of persons on parole or probation and for the reciprocal return of such persons to the contracting states for violation of the terms of their parole or probation. (Act Apr. 24, 1935, c. 257.)

**Preamble to act.**

Whereas, The Congress of the United States of America has, by law, given consent to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in

the enforcement of their respective criminal laws and policies;

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

**BOARD OF PARDONS**

**10780. Pardons—Reprieves—Unanimous vote.**

Where a conditional pardon has been granted, burden of proof of performance of condition rests upon him who relies upon effectiveness of pardon. *State v. Barnett*, 193M336, 253NW508. See Dun. Dig. 2449, 4942, 7296a.

**CHAPTER 105**

**State Prison and State Reformatory**

**STATE PRISON**

**10787. Location and management.**

Prisoners in penitentiary should not be requested or compelled to waive negligence of doctor or surgeon as condition of treatment. Op. Atty. Gen. (341h), Nov. 20, 1934.

Prisoner may use funds received from adjusted compensation certificates to purchase land if discipline of institution is not affected. Op. Atty. Gen. (342b), May 19, 1936.

**10796. Clothing and food—Money on discharge.**

Prisoner on medical reprieve is not entitled to hospital and medical services at expense of state. Op. Atty. Gen. (341j), Dec. 21, 1936.

**10807. Communication with convicts.**

Communications which are withheld from inmate and retained in files must be delivered to him upon his discharge from institution. Op. Atty. Gen. (598a), Sept. 4, 1934.

**10808. Diminution of sentence.**

Laws 1933, c. 329, providing for termination of sentences between March and November does not prevent release at other times during year by reason of good conduct. Op. Atty. Gen., Aug. 25, 1933.

**10812. Sale of binding twine.**

Laws 1931, c. 340, fixes maximum price of machinery sold for 1931 and 1932.

**10815. State prison may manufacture machinery.**

—The State Board of Control is hereby authorized, empowered, and directed to establish, construct, equip, maintain and operate, at the State Prison, at Stillwater, a factory for the manufacture of hay rakes, hay loaders, mowers, grain harvesters and binders, corn harvesters and binders and corn cultivators, and the extra parts thereof and, if the board deems it advisable, cultivators of all kinds, culti-packers, manure spreaders, ploughs, rotary hoes, and the extra parts thereof and rope and ply goods of all kinds and for that purpose to employ, and make use of the labor of prisoners kept in said prison, at any time available therefor and as largely as may be, and such but only such skilled laborers as in the judgment of the said Board of Control and the Warden of the State Prison may be necessary for the feasible and successful and profitable employment of the said prisoners therein therefor, and for the purposes of, and to give full effect to, this act, said Board of Control may use all of, or any part of, not exceeding two hundred fifty thousand dollars of the existing state prison revolving fund created by and existing under Chapter 151 of the General Laws of 1909 (Section 9291-9294, General Statutes 1913, sections 10790-10793, Mason's Minn. Stat. 1927) but provided further that said State Board of Control and the said Warden of the Prison shall, at all times, in the line of manufacturing herein authorized and directed, employ and make use of prison labor to the largest extent feasible.

And said Board of Control and said Warden of the said Prison are hereby authorized, directed and instructed to establish in and throughout all parts of this State where there is use and demand for such manufactured products as are referred to herein, and binding twines, and ropes and ply goods of all kinds, local selling agencies therefor, and to contract with such agencies to furnish thereto for the local sale thereof, the farm machinery the manufacture of which is authorized by this act and the extra parts thereof,

f. o. b. the said factory, at the actual cost of the production thereof, plus five per cent of the actual cost thereof; including a charge of not to exceed twenty-seven cents per hour for labor of each prisoner employed; and the said local agencies so contracted with are hereby authorized in the resale thereof to their actual customers therefor, to charge advance prices equaling twenty per cent of the prices charged them for said machines (plus actual freight charges), but not a greater profit thereon, and the contracts entered into with said agencies shall be so worded as to obligate them to be diligent in the prosecution of the sales of the said machines to the customers therefor. ('07, c. 49, §1; G. S. '13, §9315; '13, c. 141, §1; '23, c. 294, §1; '27, c. 172; Apr. 24, 1929, c. 348.)

Laws 1931, c. 340 and Laws 1933, c. 342, fixes the price of machinery and parts manufactured under this section for the years 1931 to 1934, inclusive.

**10816. Sale of machines.**

Laws 1931, c. 340, fixes maximum prices for 1931 and 1932.

Machinery may be sold at higher prices outside of state than in state. Op. Atty. Gen., Feb. 8, 1934.

**10821. Moneys, how used—Forfeiture.**

Prisoner may use funds received from adjusted compensation certificates to purchase land if discipline of institution is not affected. Op. Atty. Gen. (342b), May 19, 1936.

**10824. Sentence—Term of imprisonment.**

Superintendent of reformatory has no right to refuse acceptance of prisoners sentenced to his institution contrary to law. Op. Atty. Gen., Feb. 6, 1933.

**STATE REFORMATORY**

Where judge sentenced one to a year in prison but indicated that prisoner should be given credit for time spent in jail, superintendent of reformatory may give such credit. Op. Atty. Gen. (341k-10), Apr. 12, 1934.

**10826. Expense of sheriff in conveying convicts.**

No provision is made for compensation when sheriff uses his own automobile in transporting prisoner to state prison or state reformatory, but sheriff is entitled to allowance of amount equivalent to railroad fare for himself, prisoner and guards. Op. Atty. Gen., July 6, 1932.

Where juvenile was bound over to district court by juvenile court of same county and was committed to state training school at Red Wing by district court, expenses of transportation must be paid by county. Op. Atty. Gen. (345d), Apr. 16, 1937.

**10827. Register of convicts.**

Any record concerning inmate other than those herein provided are subsequent to discretion of authority. Op. Atty. Gen. (342h), Apr. 4, 1935.

**10834-1. State reformatory employees to have same salary as other penal institutions.**—That the salaries of officers and employees at the Minnesota State Reformatory at St. Cloud, Minnesota, be increased so as to place them upon the same salary schedule and basis of pay as that of officers and employees at the Minnesota State Prison at Stillwater, Minnesota, and the State Board of Control is hereby authorized and directed so to do. (Act Apr. 15, 1935, c. 183, §2.)

Sec. 3 of Act Apr. 15, 1935, cited, provides that the act shall take effect from its passage.

**FEMALE CONVICTS**

**10838. Discharge—Clothing—Money.**

This section applies only to state reformatories for men and board of control has authority to determine

what clothing and money to give to discharged inmate of state reformatory for women. Op. Atty. Gen. (344f), Mar. 16, 1936.

**10839. State Reformatory for women established.**—There is hereby created and established a separate institution for the care, training and education of women, to be known as the State Reformatory for Women. Any woman over the age of eighteen years convicted of a felony may be sentenced and committed to the State Reformatory for Women, which sentence shall be without limit as to time. The commitment and accompanying papers shall be the same as upon a sentence to the state reformatory for males. Such imprisonment shall not exceed the maximum term fixed by law or by the court, if the court has fixed the maximum term in passing sentence and may be terminated by the board of parole at any time after the expiration of the minimum term provided by law for the crime. (As amended Mar. 19, 1937, c. 75, §1.)

Prisoners may be sentenced for gross misdemeanors to term less than a year in state reformatory for women. Op. Atty. Gen. (341k-8), Mar. 20, 1936.

#### STATE BOARD OF CRIMINAL CLASSIFICATION

**10846-1. State board of criminal classification established.**—There is hereby created a state board of criminal classification for the classification of all persons hereafter sentenced to be confined in the state prison at Stillwater and the state reformatory at St. Cloud, and hereinafter called the board, which shall be composed of the following three members: the two members of the state board of control oldest in continuous service, and the chairman of the state board of parole, who shall be the chairman of said board. (Act Apr. 17, 1935, c. 207, §1.)

**10846-2. Sentences.**—All male persons, other than life prisoners who shall be confined at the state prison, and where the offense is punishable by imprisonment in the state prison or the state reformatory, shall be sentenced by the court generally to the state penal institutions and commitment shall be issued accordingly. (Act Apr. 17, 1935, c. 207, §2.)

**10846-3. St. Cloud to be receiving depot.**—The sheriff or other officer having a prisoner in charge under a commission issued as provided in the preceding section, shall deliver him to the officer in charge of the state reformatory at St. Cloud, which institution is hereby designated as a receiving depot, and the prisoner shall there be held to await the determination of the board hereby created as to the place of his imprisonment, whether in the state prison at Stillwater or in the reformatory at St. Cloud, and while awaiting the determination of the board, the prisoner shall be deemed to be serving his sentence at the reformatory and shall conform to the rules and regulations of that institution. (Act Apr. 17, 1935, c. 207, §3.)

Prior to classification prisoners are not inmates of the St. Cloud reformatory in the strict sense of the word and separate record should be maintained until they are actually assigned. Op. Atty. Gen. (344b), June 14, 1935.

**10846-4. Must be classified and assigned.**—(a) All prisoners delivered to the receiving depot shall there be held in safe custody until classified under the direction of the board with a view to determining the appropriate institution in which he shall be confined.

(b) The board shall make scientific study of each prisoner so received which shall include—

(1) Consideration of his criminal history including an investigation of the causes leading to the commission of the crime upon which the prisoner was sentenced;

(2) A study of his social history;

(3) His age at the time of committing the offense;

(4) A physical, mental and psychiatric examination;

(5) A recommendation for the care, training and employment of each prisoner with a view of his reformation and the protection of society.

(c) Upon conclusion of the survey, the board shall determine whether confinement in the state prison or the state reformatory is more appropriate to the prisoner so examined and shall classify and assign him accordingly, and thenceforth he shall be confined in the institution to which he has been so assigned until discharged, re-assigned or transferred according to law. And said board, in assigning the youthful prisoners to any institution appropriated to them, shall have full power to fix the age limit which shall be observed in such assignments, and to change such age limits from time to time as experience may dictate. (Act Apr. 17, 1935, c. 207, §4.)

All records of the board should be kept separate and become part of files of board and should not be kept in common with records of institution to which prisoner is transferred. Op. Atty. Gen. (344b), June 14, 1935.

**10846-5. Must be assigned and committed within six weeks.**—The classification and assignment of prisoners provided in the preceding section shall be completed and the prisoner assigned to one of the two institutions within six weeks from the date of commitment and if thereby he is assigned to the state prison, his transfer thereto shall be made forthwith. (Act Apr. 17, 1935, c. 207, §5.)

**10846-6. Reclassifications.**—The board, as a part of its classification of the inmates of the state prison and the state reformatory, shall make or cause to be made inquiry and examination at suitable intervals, to ascertain whether prisoners originally classified and assigned to one institution shall remain as inmates thereof or be assigned and transferred to the other institution and the board shall have full power from time to time to reassign and transfer prisoners from one of these penal institutions to the other, as often as the nature of the individual case or the efficiency of administration may require. (Act Apr. 17, 1935, c. 207, §6.)

Classification board only has jurisdiction over prisoners committed after passage of act. Op. Atty. Gen. (344b), June 14, 1935.

**10846-7. Medical examination.**—The board may require the state physician at the reformatory to make and report to it a physical and mental examination of all prisoners delivered at the institution under the requirements of this act. (Act Apr. 17, 1935, c. 207, §7.)

**10846-8. Expenses of board to be paid.**—The necessary expenses of each of the members of this board incurred by him in the performance of his official duties, shall be paid out of the budgets of their respective departments from the revenue fund, in the same manner as expenses of other state officials are paid. (Act Apr. 17, 1935, c. 207, §8.)

Expenses for keeping prisoners prior to time they are classified, clerk hire, examination by physician and psychiatrists and other necessary expenditures should be paid from funds of state reformatory and state prison in such proportion as board of control shall determine. Op. Atty. Gen. (344b), June 14, 1935.

**10846-9. Inconsistent acts repealed.**—All acts or parts of acts now in effect inconsistent with the provisions of this act are hereby superseded, modified or amended to conform to and give full force and effect to the provisions of this act. (Act Apr. 17, 1935, c. 207, §9.)

#### EMPLOYMENT OF PRISONERS IN CONSERVATION WORK

**10846-11. Convicts to do conservation work.**—The state board of control is hereby authorized within its discretion, to use selected convicts in work in the nature of general conservation, reforestation, soil erosion control, soil rehabilitation and cultivation upon any land within the control of the state board of control. (Act Apr. 25, 1935, c. 297, §1.)

**10846-12. Board of control may acquire land.**—To carry out the purposes of the preceding section,

the state board of control shall have power to acquire for specified periods of time, by agreement in writing, control of any land which is within the jurisdiction or control of any state department or agency, and any state department or agency having land under its jurisdiction or control, is authorized on agreed terms to deliver control of such land to the state board of control for the purposes specified in section 1. (Act Apr. 25, 1935, c. 297, §2.)

**10846-13. May expend moneys.**—For the purposes of this act, the state board of control may lawfully expend moneys from any of the following funds: (a) The current expense appropriations of the state reformatory and state prison; (b) Revolving funds at either of these institutions, including funds heretofore appropriated for building purposes for the State Prison or the State Reformatory; and (c) The contingent fund appropriation of the state board of control. Provided, however, that no more money shall be expended for such purposes than \$50,000.00 in the aggregate during the next biennium. (Act Apr. 25, 1935, c. 297, §3.)

Board of control has authority to expend funds from year to year without specific authorization. Op. Atty. Gen. (88a-2), Dec. 15, 1936.

**10846-14. Warden to make selection.**—Whenever convicts may be required to be used in any work as provided for in this act, they shall be selected, with the approval of the state board of control, by the warden of the state prison or superintendent of the state reformatory in the following manner and order of preference:

(1) Suitable paroled convicts who are being detained awaiting private employment;

(2) Convicts who are not habitual offenders or guilty of heinous crimes and who, in the opinion of the heads of the institutions, are not incorrigible and who are physically capable and otherwise suitable for the character of the work provided for in this act. (Act Apr. 25, 1935, c. 297, §4.)

**10846-15. Rescues and escapes.**—Any rescue or escape or attempted escape of or by a convict while without the confines of the state prison or reformatory under the provisions of this act, shall be deemed a rescue or escape or attempted escape within the meaning of Mason's Minnesota Statutes of 1927, Sections 10004 to 10012, inclusive. (Act Apr. 25, 1935, c. 297, §5.)

See §§208-1 to 208-9 creating probation and investigation department in certain counties.

#### MISCELLANEOUS PROVISIONS

**10846-21. Barter and exchange of prison made goods prohibited.**—That no goods, wares or merchandise manufactured, produced or mined, wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal and/or reformatory institutions in this or any other state shall be bartered, traded or exchanged by such penal institutions for any other goods, wares or merchandise of any kind whatsoever for use in such penal institutions. (Apr. 24, 1937, c. 444, §1.)

Sec. 2 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage.

## CHAPTER 106

### Jails, Lockups, Work Farms, and Juvenile Offenders

#### COUNTY JAILS

##### 10847. How constructed and maintained.

County has no authority to pay rent, fuel or light bills of a sheriff's residence apart from the county jail, even during process of rebuilding the jail. Op. Atty. Gen., Sept. 16, 1931.

**10849. United States prisoners.**—Whenever any person is committed to any jail by any process issued under authority of the United States, the sheriff or jailer shall receive such person into custody, and safely keep him until discharged by due course of law, subject in all respects to the same liabilities and remedies as though committed under process issued under state authority. The United States shall pay to the county the sum of one dollar per day for each prisoner so kept and boarded, subject to such division of fees between the county and the sheriff as is now provided by law. (R. L. '05, §5464; G. S. '13, §9336; '17, c. 304, §1; Mar. 27, 1931, c. 91.)

Sheriff must receive prisoners committed by federal court, and is entitled to receive from the county 75c per day for each federal prisoner, the amount collected from the federal government being turned over to the county treasurer. Op. Atty. Gen., Nov. 28, 1930.

A county is not required to receive federal prisoners if it does not want to take them, and the matter of payment of compensation to a matron for women prisoners is a matter to be taken up with the Federal Government. Op. Atty. Gen., Aug. 11, 1931.

A county cannot enter into a contract with federal government agreeing to board federal prisoners at a rate less than \$1 per day. Op. Atty. Gen., June 16, 1933.

In absence of negligence sheriff is not liable for loss of money held for federal prisoner in jail safe. Op. Atty. Gen., July 27, 1933.

##### 10853. Labor for jail prisoners.

Prisoners may be kept at a road camp at night when working at a distance from the county seat. Op. Atty. Gen., Apr. 30, 1929.

Op. Atty. Gen., Mar. 24, 1933; note under §10907. County is not liable for injuries received by prisoner in county jail while working. Op. Atty. Gen., Mar. 13, 1933.

County is not liable for medical attention to discharged prisoner who was injured while working pursuant to this section. Op. Atty. Gen., Mar. 13, 1933.

One sentenced to jail of one county may not be committed to work farm in another county because county jail has been condemned. Op. Atty. Gen., Mar. 24, 1933.

City council may allow a man who has been sentenced to a fine or imprisonment to pay his fine by working for city instead of serving jail sentence. Op. Atty. Gen. (341), Sept. 24, 1935.

City may by ordinance provide that prisoners perform labor instead of being fined, if §§10853 to 10856 are followed as to procedure. Op. Atty. Gen. (341), Dec. 7, 1935.

**10857. Compensation for boarding prisoners.**—Every sheriff in charge of a county jail shall receive from the county compensation for board and washing for prisoners as follows:

On the last day of each month he shall render to the county board a verified statement showing the name of each prisoner and the number of days boarded. The pay shall be seventy-five cents per day and proportionately for a fractional day for each prisoner. In every county where the sheriff's compensation for board of prisoners is fixed by special law, it shall so continue unless the county board by unanimous vote shall elect to come under the general law after which it shall be governed by this section provided that the provisions of this Act shall not apply to any county in this state now or hereafter having a population of more than seventy-five thousand (75,000). (R. L. '05, §5472; '09, c. 192, §1; G. S. '13, §9344; '17, c. 184, §1; Apr. 15, 1933, c. 251; Apr. 24, 1935, c. 262.)

Sheriff must receive prisoners committed by federal court, and is entitled to receive from the county 75c per day for each federal prisoner, the amount collected from the federal government being turned over to the county treasurer. Op. Atty. Gen., Nov. 28, 1930.

Sheriff is only entitled to receive 55c per day for boarding of federal prisoners unless such compensation is fixed by special law in counties containing more than 75,000 inhabitants. Op. Atty. Gen., June 6, 1933.

This act became operative on April 16, 1933. Op. Atty. Gen., June 24, 1933.

City must pay county actual cost and expenses incurred by county in care of city prisoner. §10879 controlling over this section. Op. Atty. Gen., Sept. 25, 1933.