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# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE  
THE STATUTES OF THE STATE, BY ACT OF THE  
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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## 784 EXAMINATION OF OFFENDERS, ETC. [CHAP. CVI

## RETAKING AFTER AN ESCAPE OR RESCUE.

c 102 C. S. p. 744, Sect. 21. 1 SECT. 21. If a person arrested, escapes or is rescued,  
2 the person from whose custody he has escaped or was res-  
3 cued, may immediately pursue and retake him, at any time  
4 and in any place in the state.

C. S. p. 744, Sect. 22. 1 SECT. 22. To retake the person escaping or rescued, the  
2 person pursuing may, after notice of his intention, and re-  
3 fusal of admittance, break open an outer or inner door or  
4 window of a dwelling house.

## CHAPTER CVI.

EXAMINATION OF OFFENDERS, COMMITMENT FOR  
TRIAL, AND TAKING BAIL.

c 103 C. S. p. 745, Sect. 1. 1 SECTION 1. For the apprehension of persons charged  
2 with offenses, the judges of the several courts of record, in  
3 vacation as well as in term time, and all justices of the  
4 peace, are authorized to issue process to carry into effect the  
5 provisions of this chapter.

C. S. p. 745, Sect. 2. 1 SECT. 2. Upon complaint being made to any such mag-  
2 istrate that a criminal offense has been committed, he shall  
3 examine on oath the complainant and any witness provided  
4 by him, and shall reduce the complaint to writing, and shall  
5 cause the same to be subscribed by the complainant; and  
6 if it appears that any such offense has been committed, the  
7 court or justice shall issue a warrant reciting the substance  
8 of the accusation, and requiring the officer to whom it is  
9 directed, forthwith to take the person accused and bring  
10 him before the said court or justice, or before some other  
11 court or magistrate of the county, to be dealt with accord-  
12 ing to law; and in the same warrant may require the officer  
13 to summon such witnesses as are therein named, to appear  
14 and give evidence on the examination.

C. S. p. 745, Sect. 3. 1 SECT. 3. If any person against whom a warrant is issued  
2 for an alleged offense committed in any county, either be-  
3 fore or after the issuing of such warrant, escapes from or is  
4 out of the county, the sheriff or other officer to whom such  
5 warrant is directed may pursue and apprehend the party  
6 charged, in any county in this state, and for that purpose  
7 may command aid and exercise the same authority as in his  
8 own county.

1 SECT. 4. In all cases where the offense charged in the  
 2 warrant is not punishable by death or imprisonment in the  
 3 state prison, if the person arrested requests that he may be  
 4 brought before a magistrate of the county in which the ar-  
 5 rest was made, for the purpose of entering into a recogni-  
 6 zance without a trial or examination, the officer making the  
 7 arrest shall carry him before a magistrate of that coun-  
 8 ty, who may take from the person arrested a recognizance,  
 9 with sufficient sureties, for his appearance at the court hav-  
 10 ing cognizance of the offense, and next holden in the county  
 11 where it is alleged to have been committed; and the party  
 12 arrested shall thereupon be liberated. C. S. p. 745, Sect. 4. c 103

1 SECT. 5. The magistrate who so lets the person arrested  
 2 to bail, shall certify that fact upon the warrant, and deliv- C. S. p. 745, Sect. 5.  
 3 er the same with the recognizances by him taken, to the  
 4 person who made the arrest, who shall cause the same to be  
 5 delivered without unnecessary delay to the clerk of the  
 6 court before which the accused was recognized to appear;  
 7 and on application of the complainant, the magistrate who  
 8 issued the warrant, or the district attorney, shall cause such  
 9 witnesses to be summoned to the same court as he thinks nec-  
 10 essary.

1 SECT. 6. If the magistrate in the county where the ar- C. S. p. 745, Sect. 6.  
 2 rest was made refuses to bail the person so arrested and  
 3 brought before him, or if no sufficient bail is offered, the  
 4 person having him in charge shall take him before the mag-  
 5 istrate who issued the warrant, or in his absence, before  
 6 some other magistrate of the county in which the warrant  
 7 was issued, to be proceeded with as hereinafter directed.

1 SECT. 7. When the offense charged in any warrant is C. S. p. 746, Sect. 7.  
 2 punishable with death or by imprisonment in the state pris-  
 3 on, the officer making the arrest in some other county shall  
 4 convey the prisoner to the county where the warrant issued,  
 5 and he shall be proceeded with in the manner directed in  
 6 the following section.

1 SECT. 8. Every person arrested by warrant, for any C. S. p. 746, Sect. 8.  
 2 offense where no other provision is made for his examina-  
 3 tion thereon, shall be brought before the magistrate who is-  
 4 sued the warrant, or if he is absent or unable to attend, be-  
 5 fore some other magistrate of the same county, and the  
 6 warrant with the proper return thereon, signed by the per-  
 7 son who made the arrest, shall be delivered to the magis-  
 8 trate.

1 SECT. 9. Any magistrate may adjourn an examination C. S. p. 746, Sect. 9.  
 2 or trial pending before himself from time to time as occa- Amended.  
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3 sion requires, not exceeding ten days at one time, without  
 4 the consent of the defendant or person charged, and at the  
 5 same or a different place in the county as he thinks proper,  
 6 and in such case, if the party is charged with an offense not  
 7ailable, he shall be committed in the mean time; other-  
 8 wise he may be recognized in a sum, and with sureties, to  
 9 the satisfaction of the magistrates for his appearance for  
 10 such further examination, and for want of such recognizance  
 11 he shall be committed to prison.

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C. S. p. 746, Sect. 10.

1 SECT. 10. If the person so recognized does not appear  
 2 before the magistrate at the time appointed for such further  
 3 examination, according to the conditions of such recogni-  
 4 zance, the magistrate shall record the default, and certify  
 5 the recognizance, with the record of such default, to the dis-  
 6 trict court, and like proceedings shall be had thereon as up-  
 7 on the breach of the condition of a recognizance for appear-  
 8 ance before that court.

C. S. p. 746, Sect. 11.

1 SECT. 11. When such person fails to recognize, he shall  
 2 be committed to prison by an order under the hand of the  
 3 magistrate, stating concisely that he is committed for fur-  
 4 ther examination on a future day, to be named in the order;  
 5 and on the day appointed he may be brought before the  
 6 magistrate by his verbal order to the same officer by whom  
 7 he was committed, or by an order in writing to a different  
 8 person.

C. S. p. 746, Sect. 12.

1 SECT. 12. The magistrate before whom any person is  
 2 brought upon a charge of having committed an offense,  
 3 shall, as soon as may be, examine the complainant and the  
 4 witnesses to support the prosecution, on oath, in the pres-  
 5 ence of the party charged, in relation to any matter connect-  
 6 ed with such charge, which may be deemed pertinent.

C. S. p. 746, Sect. 13.

1 SECT. 13. After the testimony to support the prosecu-  
 2 tion is finished, the witnesses for the prisoner, if he has any,  
 3 shall be sworn and examined, and he may be assisted by  
 4 counsel in such examination, and also in the cross-examin-  
 5 ation of the witnesses in support of the prosecution.

C. S. p. 746, Sect. 14.

1 SECT. 14. The magistrate while examining any witness  
 2 may in his discretion exclude from the place of examina-  
 3 tion all the other witnesses; he may also, if requested, or  
 4 if he sees cause, direct the witnesses for or against the pris-  
 5 oner, to be kept separate, so that they cannot converse with  
 6 each other, until they are examined.

C. S. p. 746, Sect. 15.

1 SECT. 15. The testimony of the witnesses examined  
 2 shall be reduced to writing by the magistrate, or under his

3 direction, and shall be signed by the witnesses, if required  
4 by the magistrate.

1 SECT. 16. If it appears to the magistrate upon the C. S. p. 746, Sect. 16. *C/O 3*  
2 whole examination that no offense has been committed, or  
3 that there is not probable cause for charging the prisoner  
4 with the offense, he shall be discharged.

1 SECT. 17. Persons charged with an offense punishable  
2 with death shall not be admitted to bail when the proof is C. S. p. 747, Sect. 17.  
3 evident or the presumption great; nor any person charged  
4 with an offense punishable with death or imprisonment in  
5 the state prison for a term exceeding seven years, be ad-  
6 mitted to bail by a justice of the peace; in all other cases,  
7 bail may be taken in such sum as in the opinion of the judge  
8 or magistrate will secure the appearance of the person  
9 charged with the offense at the court where such person is  
10 to be tried.

1 SECT. 18. If it appears that an offense has been com-  
2 mitted and that there is probable cause to believe the pris- C. S. p. 747, Sect. 18.  
3 oner guilty, and if the offense is bailable by the magistrate,  
4 and the prisoner offer sufficient bail, or the amount of mon-  
5 ey in lieu thereof, it shall be taken and the prisoner dis-  
6 charged; but if no sufficient bail is offered or the offense is  
7 not bailable by the magistrate, the prisoner shall be com-  
8 mitted for trial.

1 SECT. 19. When the prisoner is admitted to bail, or  
2 committed by the magistrate, he shall also bind by recogni- C. S. p. 747, Sect. 19.  
3 zance such witnesses against the prisoner as he deems ma-  
4 terial, to appear and testify at the next court having cogni-  
5 zance of the offense, and in which the prisoner is held to an-  
6 swer.

1 SECT. 20. If the magistrate is satisfied that there is  
2 good cause to believe that any such witness will not per- C. S. p. 747, Sect. 20.  
3 form the condition of his recognizance unless other security  
4 is given, such magistrate may order the witness to enter  
5 into a recognizance with such sureties as may be deemed  
6 necessary for his appearance at court.

1 SECT. 21. When any married woman or minor is a ma- C. S. p. 747, Sect. 21.  
2 terial witness, any other person may be allowed to recog-  
3 nize for the appearance of such witness, or the magistrate  
4 may in his discretion take the recognizance of such married  
5 woman or minor in a sum not exceeding fifty dollars, which  
6 shall be valid and binding in law, notwithstanding the dis-  
7 ability of coverture or minority.

c103 - C. S. p. 747, Sect. 22. 1 SECT. 22. All witnesses required to recognize either  
2 with or without sureties, shall, if they refuse, be committed  
3 to prison by the magistrate, there to remain until they com-  
4 ply with such order or are otherwise discharged according to  
5 law.

C. S. p. 747, Sect. 24. 1 SECT. 23. Any magistrate to whom complaint is made  
2 or before whom any prisoner is brought, may associate with  
3 himself one or more magistrates of the same county, and  
4 they may together execute the powers and duties before  
5 mentioned, but no fees shall be taxed for such associates.

C. S. p. 747, Sect. 25. Amended. 1 SECT. 24. All examinations and recognizances taken by  
2 any magistrate in pursuance of the provisions of this chap-  
3 ter, shall be certified and returned by him to the clerk of  
4 the court before which the party charged is bound to ap-  
5 pear, on or before the first day of the sitting thereof, and  
6 shall be filed in said court; and if such magistrate neglects  
7 or refuses to return the same, he may be compelled forth-  
8 with by rule of court, and in case of disobedience, may be  
9 proceeded against by attachment as for contempt.

C. S. p. 748, Sect. 28. 1 SECT. 25. When any person under recognizance in any  
2 criminal prosecution either to appear and answer or to pros-  
3 ecute an appeal, or to testify in any court, fails to perform  
4 the condition of such recognizance, his default shall be re-  
5 corded and process shall be issued against the persons bound  
6 by the recognizance, or such of them as the prosecuting of-  
7 ficer directs.

C. S. p. 748, Sect. 29. 1 SECT. 26. Any surety in such recognizance may, by  
2 leave of the court, after default, and either before or after  
3 the process is issued against him, pay to the county treas-  
4 urer or to the clerk of the court, the amount for which he  
5 was bound as surety, with such costs as the court directs  
6 and be thereupon forever discharged.

C. S. p. 748, Sect. 30. 1 SECT. 27. When any action is brought in the name of  
2 the state of Minnesota against a principal or surety in any  
3 recognizance entered into, either by a party or a witness in  
4 any criminal prosecution, and the penalty of such recogni-  
5 zance is adjudged forfeited, the court may, on application  
6 of any party defendant, remit any part or the whole of such  
7 penalty and may render judgment thereon for the state, ac-  
8 cording to the circumstances of the case, and the situation  
9 of the party, and upon such terms and conditions as to  
10 such court seems just and reasonable.

C. S. p. 748, Sect. 31. 1 SECT. 28. No such action brought on a recognizance as  
2 mentioned in the preceding section shall be barred or de-

3 feated, nor shall judgment thereon be arrested by reason of  
 4 any neglect or omission to note or record the default of any  
 5 principal or surety, at the term when such default happens  
 6 nor by reason of any defect in the form of the recogni-  
 7 zance, if it sufficiently appears from the tenor thereof at  
 8 what court the party or witness was bound to appear, and  
 9 that the court or magistrate before whom it was taken was  
 10 authorized by law to require and take such recognizance.

1 SECT. 29. Whenever upon action brought upon any re- C. S. p. 777, Sect. 5. *c 115*  
 2 cognizance to prosecute an appeal, the penalty thereof is  
 3 adjudged to be forfeited, or when by leave of the court,  
 4 such penalty has been paid to the county treasurer or to the  
 5 clerk of the court, without a suit or before judgment has  
 6 been given in a manner by law provided, if by law any for-  
 7 feiture accrues to any person by reason of the offense of  
 8 which the appellant was convicted, the court may award  
 9 to him such sum as he may be entitled to out of such for-  
 10 feiture.

1 SECT. 30. If a defendant in any indictment has been let  
 2 to bail, after verdict or trial, and neglects to appear before C. S. p. 786, Sect. 47. *c 118*  
 3 any court or officer, at any time or place at which he is  
 4 bound to appear, and submit to the jurisdiction of the prop-  
 5 er court or officer, the court or officer before which he is  
 6 bound to appear may cause such defendant to be arrested in  
 7 the same manner as upon the finding of an indictment, and  
 8 may forfeit his recognizance and direct the same to be pros-  
 9 ecutud.

1 SECT. 31. When in any case a party in custody is desirous  
 2 of giving bail, the offense beingailable, and the district  
 3 court is not in session in the county, he may apply to the C. S. p. 747, Sect. 23. *c 103*  
 4 judge thereof, or a judge of the supreme court, upon his Amended.  
 5 affidavit showing the nature of the application and the names  
 6 of the persons to be offered as bail, with a copy of the mitti-  
 7 mus or papers upon which he is held in custody. The  
 8 judge may thereupon by order direct the sheriff to bring up  
 9 said party at a time and place named for the purpose of  
 10 giving bail. Notice of such application shall be given to  
 11 the county attorney, if he is within the county, and no mat-  
 12 ters can be inquired into except such as relate to the amount  
 13 of bail and the sufficiency of the sureties.

1 SECT. 32. Bail shall in all cases justify by affidavit or C. S. p. 784, Sect. 30. *c 118*  
 2 upon oral examination before the court, judge, or magistrate  
 3 as the case may be.