

CHAPTER 202

PRIMARY ELECTIONS; GENERAL PROVISIONS

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202.01 DATE OF PRIMARY ELECTIONS. On the second Tuesday in September preceding any general election, and seven weeks preceding any city election in cities of the first and second class, held for the purpose of electing city officers only, an election of nominees hereinafter designated as the "primary election" shall be held in each election district for the selection of party and other candidates for all elective offices within the state, to be filled at such election, except officers of towns, villages and cities of the third and fourth class, and members of school, park and library boards, in cities having less than 100,000 inhabitants, and except presidential electors.

[1939 c. 345 part 3 c. 1 s. 1] (601-3(1))

202.011 MUNICIPAL PRIMARY ELECTIONS. Subdivision 1. **When held.** As hereinafter provided, a primary municipal election for the purpose of nominating municipal elective officers may be held in any city of the first class on the second Tuesday in March of any year in which a general municipal election is to be held for the purpose of electing municipal officers.

Subd. 2. **Date to be fixed by resolution.** Not less than 60 days after April 12, 1943, the governing body of any city of the first class may, by a majority vote of all the members of such body, adopt a resolution fixing and establishing the second Tuesday in March for the holding of such primary municipal election in any year in which a general municipal election is to be held in such city. If and when the governing body of any such city adopts a resolution fixing and establishing the time of the holding of a primary municipal election, as provided for in this section, the city clerk or other officer of such city charged with the duty of keeping the minutes and records of the governing body of such city, shall forthwith file a duly certified copy of such resolution with the secretary of state and another duly certified copy of such resolution with the register of deeds of the county in which such city is located; and thereupon, the time fixed and established by such resolution for the holding of such primary municipal election shall become fixed, and no power shall thereafter exist in the governing body of any such city to change the time of the holding of such primary municipal election unless the authority to make such change is thereafter conferred upon such governing body by an act of the Legislature, or by an amendment to the charter of such city duly ratified and accepted by the qualified electors of such city, in accordance with the constitution of the state of Minnesota, Article 4, Section 36, and all applicable acts thereunto enabling.

[1943 c. 408]

202.02 CANDIDATES TO BE CHOSEN AT PRIMARY ELECTION. Candidates for office shall be chosen at such primary election by voters of several political parties and not otherwise. The chief justice and the associate justices of the supreme

court and judges of the district, probate, and municipal courts, and all members of the state legislature, and all elective county officers and municipal officers in cities of the first and second class, shall be nominated upon separate non-partisan ballots, as hereinafter provided. All qualified and duly registered voters may participate in the choosing of candidates for city office as provided for in the city charter of cities having home rule charters; the names of all candidates for nomination for the office of chief justice, associate justice of the supreme court, judge of the district court, probate and municipal court and all members of the state legislature, and all elective county officers, and all municipal offices in cities of the first and second class, shall be placed upon a separate primary ballot hereinafter designated as "ballot of candidates to be nominated without party designation."

No party or other designation, except as above, shall be placed on such ballot except as herein provided, nor shall any candidate filing for nomination on said ballot be permitted or required to state his party affiliation on said filing affidavit. All provisions of law relating to the nomination of party candidates as to the form of ballot, including rotation of names, the endorsement thereon, voting, marking ballots, counting, returning and canvassing results, shall apply to nomination of these officers, except that the tally books and returns shall be made separately, and except that non-partisan offices shall not be classified on the ballot or otherwise. Each voter shall be entitled to vote a non-partisan primary ballot without reference to his party affiliation.

The two candidates for nomination for each such non-partisan office who shall receive the highest number of votes, ascertained as provided by this chapter, shall be declared the nominees and their names shall be placed upon the election ballot, without party designation, and when two or more persons are to be elected for the same office, at a general election running at large in a city, county district, or in this state, the non-partisan nominees to be placed upon the general election ballot shall be the number of candidates not exceeding twice the number of such persons to be elected for the same office which shall receive the highest number of votes at such primary election. When only two persons file for the nomination for any non-partisan office, or not more than twice the number of persons to be elected to any non-partisan office file for the nomination thereof, their names shall not be placed upon the non-partisan primary ballot, but these persons shall be considered and shall be the nominees for such office and their names shall be placed upon the general election ballot as such non-partisan nominees. Nothing herein shall prevent the nomination of candidates by groups, individuals, or so-called political parties which cannot be recognized as such, by certificate of voters to the number hereafter specified. The names of candidates nominated by certificates for offices herein above designated as non-partisan shall have no party or other designation on the certificate or on the election ballot.

[1939 c. 345 part 3 c. 1 s. 2] (601-3(1)a)

202.03 AFFIDAVIT OF CANDIDACY; FEES. Not more than 90, nor less than 40, days before the primary election any person eligible and desirous of having his name placed upon the primary ballot as a candidate for chief justice or associate justice of the supreme court, judge of the district court, state or congressional office or member of the state legislature or a county office, shall file his affidavit with the secretary of state when to be voted for in more than one county, and with the county auditor when in a single county, stating his residence, that he is a qualified voter in the subdivision where he seeks a nomination, the name of his political party, if for a political party office, and the office for which he desires to be a candidate; that he has not filed as a candidate for any other office at the same primary election; that no petition of electors has been filed placing his name upon the non-partisan election ballot as a candidate for chief justice or associate justice of the supreme court or judge of the district court; and if for a political party office that he affiliated with such political party at the last general election, and either that he did not vote thereat or voted for a majority of the candidates of such political party at such election and intends to so vote at the ensuing election; provided, that all candidates for office not enumerated above in this section shall file their affidavit as herein provided, not more than 90, nor less than 40, days before the primary election. Upon payment by such candidate to the secretary of state of \$20.00, if for any office to be voted for in more than one county, or if for any office to be voted for in only one county,

upon payment of \$10.00 to the county auditor thereof, the county auditor shall place the name of such candidate upon the primary election ballot in the ticket of the political party designated except where only one person has filed as a candidate for any one office in any one political party the name of such candidate shall not be placed upon the primary ballot but shall be considered and shall be the nominee for such office for the political party under which such candidate filed and his name shall be placed upon the general election ballot as the nominee of such political party for such office. Candidates for the legislature shall pay \$10.00 only to the secretary of state when the affidavit or petition is filed with him and \$10.00 to the county auditor when filed with him; provided that the name of any eligible person may also be placed upon the non-partisan primary election ballot as a candidate for chief justice or associate justice of the supreme court or judge of the district court upon petition in writing of electors filed within the same time and at the same place and upon payment of the same fee as is provided in cases of filing of affidavits by candidates as follows:

For chief justice or associate justice of the supreme court, upon petition of 500 electors residing within the state; for judge of the district court upon the petition of 250 electors residing within the judicial district. Such petition shall be in writing and signed by each of the electors joining therein and shall be by each of them acknowledged before an officer authorized by law to administer an oath. Upon the compliance with such requirement, such names shall be placed upon the non-partisan primary election ballot if the party named in the petition is not a candidate for any other office at the same primary election. No petition shall contain more than double the number of signatures herein required and no officer shall receive for filing or file any petition containing more than double the number of signatures so required. Any person whose name is presented and filed may withdraw the same by filing an affidavit of withdrawal thereof in the same office in which such petition is filed. Each candidate for state offices, congressmen, and judges of the supreme court shall pay to the secretary of state the sum of \$50.00 each at the time of filing his affidavit with said officer. No such candidate shall be permitted to withdraw his name from the ballot unless he shall file an affidavit with the secretary of state or with the county auditor, as the case may be, requesting such officer to withdraw affiant's name from the ballot within eight days after the last day for filing for such office.

[1939 c. 345 part 3 c. 1 s. 3; 1945 c. 127 s. 1] (601-3(1)b)

202.04 MARRIED WOMEN MAY USE THE PREFIX "MRS." Any married woman who may hereafter file as a candidate for any public office under the laws of this state may use the prefix "Mrs." and the full name of her husband, or the initials of her husband's given name, in stating her own name on her affidavit of candidacy; and the proper state, county or municipal official in the preparation of the official ballot shall use such name as written on the affidavit of candidacy, in designating such candidate on the ballot.

[1939 c. 345 part 3 c. 1 s. 4] (601-3(1)c)

202.05 AFFIDAVITS TO BE NUMBERED. The secretary of state and county auditor, respectively, shall number each affidavit and petition in numerical order as received. The auditor shall immediately pay to the county treasurer all fees received from candidates. Immediately after the last day for filing nomination affidavits or petitions, the secretary of state shall divide the amount of all fees paid to him by candidates equally between the counties within which such candidates are to be voted for, and certify such division to the state auditor, who shall issue warrants therefor on the state treasurer for the amount due to each county.

[1939 c. 345 part 3 c. 1 s. 5] (601-3(1)d)

202.06 ELECTION TO BE BY BALLOT. All voting at a primary election shall be by ballot. There shall be one ballot for all political party candidates, grouped by parties, and a separate ballot for all candidates to be nominated without party designation. On the twenty-fifth day before a primary election, the secretary of state shall certify to the auditors of the several counties the names of all nominees to be voted for within such counties whose certificates have been properly filed with him.

[1939 c. 345 part 3 c. 1 s. 6] (601-3(1)e)

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202.07 NOMINEES OF POLITICAL PARTIES. The persons certified by canvassing boards to be nominated, shall constitute the nominees of the several political parties or the nominees under the terms of a home rule charter, or the non-partisan nominees, as the case may be, to be voted for at the next ensuing general election, and their names shall be printed upon the official ballots prepared for the ensuing election.

[1939 c. 345 part 3 c. 1 s. 7] (601-3(1)f)

202.08 ERRORS IN BALLOTS. When it shall be made to appear by affidavit to any judge of the supreme court in the case of a state election, or of the district court in the case of a county election of the proper county, that an error or omission has occurred or is about to occur in the placing of any name on an official primary election ballot, that any error has been or is about to be committed in printing such ballot, or that any wrongful act has been or is about to be done by any judge or clerk of a primary election, county auditor, canvassing board, member thereof, or other person charged with any duty concerning the primary election, or that any neglect of duty has occurred or is about to occur, such judge shall order the officer or person charged with such error, wrong, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty, or forthwith show cause why he should not do so. Failure to obey the order of such judge shall be contempt of court.

[1939 c. 345 part 3 c. 1 s. 8] (601-3(1)g)

202.09 CONTESTS IN PRIMARY ELECTIONS. Any candidate at a primary election desiring to contest the nomination of another candidate for the same office shall proceed in the manner prescribed for general election contests, and the same proceedings shall be had, so far as practicable, as for such contests.

[1939 c. 345 part 3 c. 1 s. 9] (601-3(1)h)

202.10 POLITICAL PARTY CONVENTIONS. Each political party shall provide a state central committee, a congressional committee for each congressional district, a county committee for each county, as provided by the constitution of such party; if such political party does not have a constitution, it shall be governed by the following manner:

(1) The nominees for state offices, senators and representatives in congress of each political party, shall meet on the second Monday after the primary election at the state capitol at 12 o'clock noon, at which time they shall elect a state central committee, herein provided for, of such size as they shall at said time determine, and shall also elect a congressional committee for each congressional district, of such size as they shall at that time determine, the members of each congressional committee to be chosen from among the electors of the several congressional districts respectively.

(2) Each committee and its officers shall have the powers which have customarily been used by such committees and by the officers thereof, insofar as it is consistent with this act. The various committees and their officers now in existence, shall exercise the powers and duties herein prescribed until their successors are chosen in accordance with this section.

[1939 c. 345 part 3 c. 2 s. 1; 1943 c. 47 s. 1] (601-3(2))

202.11 DELEGATE CONVENTION MAY NOMINATE CERTAIN OFFICERS. Candidates whose nominations are not required to be made by a primary election may be nominated by a delegate convention called for the purpose. The authorized county or city committee of any political party, at least 20 days before the time fixed for the election of delegates, shall give two weeks' published, and at least six days' posted, notice of primaries for the purpose of electing the number of delegates to which each district is entitled, and of the offices for which nominations are to be made. Except as otherwise especially provided, such primaries shall be conducted in accordance with the provisions of this act relating to primary elections, insofar as the same can be applied. All such primaries shall be held at the regular polling places, and those of each county on the same day, at an hour thereof between 2:00 and 9:00 p. m. appointed by the committee calling the convention, and shall be kept open for at least one hour.

[1939 c. 345 part 3 c. 2 s. 2] (601-3(2)a)

202.12 STATE AND DISTRICT CONVENTIONS. When the delegates so chosen are to form a convention for the election of delegates to a state convention or to that of a district of the state larger than a county, the political party convention of the several counties shall be held on the same day. Such state or district conventions shall be called by the authorized political party committee of such state or district, substantially as prescribed in Laws 1913, Section 362, and the day for holding the county conventions shall be named in the call.

[1939 c. 345 part 3 c. 2 s. 3] (601-3(2)b)

202.13 OFFICERS OF CONVENTIONS. At the hour appointed for holding such primaries the chairman or secretary of the party committee of the district, or, if neither be present, some member of the party who is a voter in the district, shall call the meeting to order. Those present and qualified to vote at such election shall choose from their number, viva voce, a chairman, clerk, and two judges of the election. The delegates shall be chosen by ballot, and each may contain as many names as there are delegates to be elected from the district. If more be placed thereon, the ballot shall be void. Those receiving the highest number of votes shall be declared elected, and if there be a tie, the judges and clerk shall determine it by lot.

[1939 c. 345 part 3 c. 2 s. 4] (601-3(2)c)

202.14 CONDUCT OF CONVENTIONS. The chairman shall preside, and may administer the oath to the judges and clerk and to those whose right to vote is challenged. Only those shall vote at the primary who affiliated with such political party at the preceding general election; but if any voter of the district shall satisfy the judges by his oath that he did not vote at the last general election or voted and affiliated with the political party holding such primaries at the last general election and intends to so vote and affiliate at the ensuing election, his vote shall be received. No person shall vote for the delegates of more than one political party in any calendar year.

[1939 c. 345 part 3 c. 2 s. 5] (601-3(2)d)

202.15 CLERK TO KEEP RECORD. The clerk shall keep a record of the proceedings of such primary, and may administer the oath to the chairman. The judges shall receive and count the ballots of all having the right to vote at the primary, and none others. They shall record the names and addresses of all persons voting. Both judges and clerk shall subscribe the oath required of judges and clerks of elections. At the closing of the polls they shall count the ballots and report the same to the chairman, who shall publicly announce the result forthwith. The chairman and clerk shall then furnish each delegate elected with a certificate of his election, and transmit to the chairman of the committee calling the primary a list of the names and addresses of the persons who voted thereat.

[1939 c. 345 part 3 c. 2 s. 6] (601-3(2)e)

202.16 APPLICATION. The provisions of sections 202.10 to 202.18 relating to conventions shall not apply to primaries in villages, towns, or school districts. The provisions relating to notice of delegate primaries shall not apply to the choice of delegates to a convention held to nominate candidates to be voted for at a special election, but such conventions, and the elections to choose delegates thereto, may be called and held in such manner, and at such times and places, as the proper political party committees may determine.

[1939 c. 345 part 3 c. 2 s. 7] (601-3(2)f)

202.17 FILLING OF VACANCIES. If an elected delegate for any reason fails to serve, his place shall be filled, from the voters of his party in his district, by the remainder of the delegation. If no such voter be present at the convention, the delegates present may cast the full vote. If an entire delegation shall fail to attend, the convention may select qualified voters of the political party residing in the district, if such be present, to act in lieu thereof.

[1939 c. 345 part 3 c. 2 s. 8] (601-3(2)g)

202.18 CERTIFICATES OF NOMINATION. The certificate of nomination of a candidate selected by convention shall be signed and certified by the presiding officer and secretary thereof, who shall also take and subscribe an oath that the facts stated in the certificate are true; and the secretary shall immediately deliver such certificate of nomination to the officer charged with directing the printing of the ballots upon which the name is to be placed; and in case he shall neglect to do so, he shall be guilty of a misdemeanor.

[1939 c. 345 part 3 c. 2 s. 9] (601-3(2)h)

202.19 NOMINATION BY PETITION. The certificate of nomination of a candidate selected otherwise than by a convention of delegates shall be signed only after the holding of the regular primary election by electors resident within the district or political division from which the candidate is presented, as follows: If for a state office on a state ticket, equal to one per cent of the entire vote of the state cast at the last preceding general election; if for a congressional or judicial district office, by five per cent of the entire vote cast in any such district at the last preceding general election, and if for a county, legislative or municipal office, by ten per cent of the entire vote cast in any such county, city, village, ward or other election district at the last preceding general election. The number of signatures required shall not exceed 2,000 for any state office, nor 500 for any congressional or judicial district, nor for any other office, provided that no persons shall be nominated by petition pursuant to this section for any office now or hereafter declared to be a non-partisan office, except in case of vacancy or death or withdrawal of a nominated candidate. A person who has been a candidate for an office at the primary election in any year shall not be eligible for nomination for the same office in that year by petition or certificate under the provisions of this section.

[1939 c. 345 part 3 c. 3 s. 1] (601-3(3))

202.20 FORM OF CERTIFICATES. Such certificate of nomination, which may consist of one or more writings, shall contain the name of the person nominated, the office for which he is nominated, the party or political principle he represents, expressed in not more than three words, and his place of residence, with street and number thereof, if any. In case of presidential electors, the names of the candidates for president and vice president may be added to the party or political appellation.

[1939 c. 345 part 3 c. 3 s. 2] (601-3(3)a)

202.21 NOT TO CONTAIN MORE THAN THE NAME OF ONE CANDIDATE. All nominating certificates containing the names of more than one candidate shall be void. No person shall sign a certificate of nomination by voters until after the date of the primary election. No person who has voted at a primary shall be eligible as a petitioner for any nomination to an office for which nominees were voted upon at such primary. Nor shall any person join as a petitioner in nominating more than one candidate for the same office, unless more than one person is to be elected thereto; in which case, if eligible, he may petition for as many candidates therefor as there are persons to be chosen.

[1939 c. 345 part 3 c. 3 s. 3] (601-3(3)b)

202.22 OATH OF SIGNERS. Following the facts required to be stated in each certificate signed by voters, shall be written or printed an oath in the following form: "I solemnly swear (or affirm) that I know the contents and purpose of this certificate, that I did not vote at the preceding primary election, and signed the same of my own free will." Each signer, at the time of signing, shall be sworn as aforesaid.

[1939 c. 345 part 3 c. 3 s. 4] (601-3(3)c)

202.23 VACANCIES. If a vacancy occurs after nominations have been made it may be filled at any time before the general election by filing with the proper officer a nomination certificate in form and substance as hereinbefore provided, executed by the chairman and secretary of the proper committees of the political party whose voters make the original nomination, under the direction of such committee, and the chairman and secretary when so filing such certificate must attach thereto an affidavit to the effect that such candidate has been duly selected by said committee and that the persons signing said certificate and making such affidavit as such, are the duly authorized chairman and secretary of said committee. If there is no proper committee to fill such vacancy, as above provided, then in that event the person receiving the next highest number of votes for such office at such primary election shall be the candidate for such office and if there is no other candidate for such office and a vacancy exists by reason of this fact the vacancy may be filled by the proper officer, placing upon the ballot the name or names of such candidates as are nominated by petition in the manner provided in sections 202.19 to 202.22. Every registered voter of such political party who has qualified and participated in the primary election is eligible to sign a petition choosing a nominee to fill the vacancy.

[1939 c. 345 part 3 c. 3 s. 5] (601-3(3)d)

202.24 NOMINEES OF POLITICAL PARTIES. The person receiving the highest vote at such primary election, as the candidate of any political party for an office shall be the nominee of that political party for such office. Candidates on non-partisan ballots receiving the highest and the next highest votes shall be the nominees for the office for which they are candidates. If the number of votes cast for any candidate of any political party for any office at such primary election shall aggregate the number of votes equal to ten per cent or more of the average vote cast for state officers of that political party at the last general election in the territory within which such candidates are to be voted for, then all candidates of that political party shall be the nominees of such political party; otherwise no candidate of that political party within that territory shall be nominated, and in such case, such candidates of such political party may be nominated by petition as provided by sections 202.19 to 202.22, and the candidates of any such political party failing to receive such ten per cent of such vote shall be eligible for nomination under the terms of this provision. The term "state officers," as used in this section for the purpose of computing the average vote to determine the ten per cent vote as above provided, is hereby defined to be the governor, lieutenant-governor, secretary of state, state treasurer, and attorney general.

[1939 c. 345 part 3 c. 3 s. 6] (601-3(3)e)

202.25 ORIGINAL TO BE FILED WITH THE COUNTY AUDITOR WHERE PETITIONER RESIDES. When the nomination of a candidate to be voted for in any district larger than a single county is made by voters' certificate, the original thereof shall be filed with the auditor of the county where the candidate resides and such auditor shall certify as many copies thereof, if presented to him, as there are other counties in the district, one of which certified copies shall be filed within the proper time with the auditor of each such county, and shall be authority for such auditor to place the name upon the india tint ballots.

[1939 c. 345 part 3 c. 3 s. 7] (601-3(3)f)

202.26 TIME OF FILING OF PETITION. No nomination for any office shall be made either by petition or otherwise within 30 days before the time of holding a general election, except nominations to fill a vacancy in a nomination previously made, or to nominate a candidate for an office in which a vacancy has occurred and for which no person is a candidate.

[1939 c. 345 part 3 c. 3 s. 8] (601-3(3)g)

202.27 WHERE CERTIFICATES OF NOMINATION SHOULD BE FILED. Certificates of nomination shall be filed as follows: With the secretary of state, of the names to be placed on the white ballots, on or before the fifth Saturday preceding the day of election; with the county auditor, to be placed upon the india tint ballots, on or before the third Tuesday preceding the day of election; with the city clerk or other proper officer, to be placed on the red ballots, on or before the third Saturday preceding the day of election. In each case the officer with whom such certificate is filed shall give or send to the person filing the same an acknowledgment thereof upon the same day it is received, and shall file and preserve such certificates, subject to public inspection. No filing of any certificate shall be effectual unless at the time thereof the prescribed fee shall be paid or tendered to such officer.

[1939 c. 345 part 3 c. 3 s. 9; 1943 c. 410 s. 1] (601-3(3)h)

202.28 FILLING VACANCIES. If the ballots have been printed, the officer whose duty it may be to have such ballots prepared and printed, shall, if such ballots be still in his hands, attach to the ballots, over the name of the candidate who causes the vacancy, adhesive stickers containing the name only of the candidate selected under section 202.23. Should such ballots have been distributed before such vacancy occurs then and in that event the officer shall cause to be printed and distributed to the judges to whom the ballots have been distributed a sufficient number of adhesive stickers to correct the ballots, as provided herein, and the judges shall correct the ballots as herein provided.

[1939 c. 345 part 3 c. 3 s. 10] (601-3(3)i)

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202.29 DESIGNATION OF CANDIDATES NOMINATED BY PETITIONS.

After the name of each candidate nominated by petition shall be placed the words "nominated by petition," and such other designation as may be now permitted by law, except that the word "non-partisan" shall not be placed after or to designate any candidate not duly nominated at a primary election on the non-partisan ballot.

[1939 c. 345 part 3 c. 3 s. 11] (601-3(3)j)

202.30 NOMINATIONS IN CITIES OF THE FIRST CLASS. The separate primary election ballot of candidates for nomination for offices designated by section 202.02, as non-partisan shall be headed "ballot of candidates to be nominated without party designation."

[1939 c. 345 part 3 c. 3 s. 12] (601-3(3)k)

202.31 FEES. In cities of the first class operating under a home rule charter the city clerk shall, upon the payment of \$10.00, place on the city primary ballot prepared by him the names of all candidates for city offices, who have been duly presented for city offices in the form and manner prescribed by the city charter; in cities other than the first class operating under a home rule charter, the secretary of state, county auditor and city clerks shall place upon the ballots prepared by them, respectively, the names of all candidates duly nominated, whose certificates of nomination have been duly filed, accompanied by fees, as follows:

(1) If to appear upon the white ballot, except a candidate for United States Senator, \$50.00;

(2) If to appear upon the red ballot for a city of more than 3,000 inhabitants, \$5.00; if less, \$2.00;

(3) If to appear upon the india tint ballot, except in case of a candidate for congress, \$10.00 in case the candidate is to be voted for in one county only, otherwise, \$20.00; provided, however, that candidates for the legislature shall in all cases pay \$10.00, and candidates for county commissioner, whose compensation is less than \$300, shall pay \$5.00.

If no compensation be provided by law for the office or if the office be that of presidential elector, no nomination fee shall be required.

[1939 c. 345 part 3 c. 3 s. 13] (601-3(3)l)