

REVISED LAWS OF
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

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CHAPTER 96.

CRIMES AGAINST PUBLIC JUSTICE.

BRIBERY AND CORRUPTION.

4799. Bribery of public officer or legislator.

See sections [4799—] 1, [4799—] 2.

[4799—]1. **Bribery of member of Legislature.**—A person who gives or offers, or causes to be given or offered a bribe or any money, property or value of any kind, or any promise or agreement therefor, to a member of the Legislature, or any person who has been elected a member of the Legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence a member or person who has been so elected a member, to give or withhold his vote or to absent himself from the house of which he is a member or to which he has been elected a member, or from any committee thereof, is punishable by imprisonment in the state prison for not more than ten years or by a fine of not more than \$5,000, or both. (G. S. 1894, § 6343, as amended by Laws 1905, c. 31, § 1.)

Historical.—“An act to amend section 6343 of the General Statutes of 1894, relating to bribery of members of the Legislature and members elect.” Approved March 9, 1905. G. S. 1894, § 6343, was Pen. Code, § 59 (see Laws 1885, c. 240, “An act to provide for the publication of the Penal Code”). Laws 1885, c. 240, was repealed by R. L. § 5536; the provisions of said section 6343 being incorporated in R. L. § 4799. So far as the amended section above set forth differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

See section [4799—] 2.

[4799—]2. **Bribery of public officer or legislator.**—Every person who gives or offers a bribe, or any consideration, to any executive or administrative officer of the state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer; or who gives, offers or causes to be given or offered a bribe, or any consideration, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence such member to give or withhold his vote, or to absent himself from the house of which he is a member, or from any committee thereof, or who gives, offers, or causes to be given or offered, a bribe, or any consideration, or any money, property, or value of any kind, or any promise or agreement therefor, to a judicial officer, juror, referee, arbitrator, appraiser, or assessor, or other person authorized by law to hear or determine any question, matter, cause, proceeding, or controversy, with intent to influence his action, vote, opinion, or decision thereupon; or who gives, offers or causes to be given or offered, a bribe, or any consideration, or any money, property or value of any kind or any promise or agreement therefor, to a person executing any of the functions of a public officer, other than those hereinbefore specified, with intent to influence him in respect to any act, decision, vote, or other proceeding, in the exercise of his powers or functions—shall be punished by imprisonment in the state prison not exceeding ten years, or by a fine not exceeding five thousand dollars or by both. No person shall be excused from attending and testifying before any court or magistrate upon an investigation, proceeding or trial for a violation of any of the provi-

sions of this act upon the ground, or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture, but no person shall be prosecuted, or subjected to any penalty or forfeiture for, or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding. ('07 c. 353 § 1)

Historical.—"An act relating to briberies of public officers or members of either house of the Legislature." Approved April 23, 1907.

See sections 4799, [4799—] 1.

4800. Asking or receiving bribes.

See sections [4800—] 1, [4800—] 2.

[4800—]1. **Receiving bribe by member of legislature.**—A member of either of the houses composing the legislature of this state, or any person who has been elected to membership therein, who asks, receives or agrees to receive, any bribe upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives or offers, or promises to give any official vote in consideration that another member of the legislature or person elected to membership therein shall give any such vote either upon the same or another question, is punishable by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or both. (G. S. 1894, § 6344, as amended by Laws 1905, c. 32, § 1.)

Historical.—"An act to amend section 6344 of the General Statutes of 1894, with reference to receiving bribes by members of the Legislature or persons elected to membership therein." Approved March 9, 1905. G. S. 1894, § 6344, was Pen. Code, § 60, the provisions of which were incorporated in R. L. § 4800.

As to construction of the amended section above set forth, see note under section [4799—] 1. See, also, section [4800—] 2.

[4800—]2. **Accepting or receiving bribes.**—Every executive or administrative officer, or person elected or appointed to an executive or administrative office, who asks, receives, or agrees to receive any bribe, or any consideration, upon an agreement or understanding that his vote, opinion, or action upon any matter then pending, or which may, by law be brought before him in his official capacity shall be influenced thereby; every member of either house of the legislature of the state who asks, receives or agrees to receive any bribe, or any consideration, upon any understanding that his official vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives, offers or promises to give any official vote in consideration that another member of the legislature shall give any such vote, either upon the same or another question; every judicial officer, every person who executes any of the functions of a public office, not hereinbefore specified, and every person employed by or acting for the state, or for any public officer in the business of the state, who asks, receives or agrees to receive a bribe, or any consideration, or any money, property, or value of any kind, or any promise or agreement, therefor, upon any agreement or understanding that his vote, opinion, judgment, action, decision or other official proceeding shall be influenced thereby, or that he will do or omit any act or proceeding, or in any way neglect or violate any official duty—shall be punished by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or by both, and in addition thereto he shall for-

feit his office and be forever disqualified from holding any public office under the state. No person shall be excused from attending and testifying before any court or magistrate upon an investigation, proceeding or trial for a violation of any of the provisions of this act upon the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture, but no person shall be prosecuted, or subjected to any penalty or forfeiture for, or on account of any transaction, matter or thing concerning which he may so testify, or produce evidence, documentary or otherwise, and no testimony so given, or produced shall be received against him upon any criminal investigation or proceeding. ('07 c. 325 § 1)

Historical.—"An act relating to asking or receiving bribes by public officers or members of either house of the Legislature." Approved April 23, 1907.

See sections 4800. [4800—] 1.

PERJURY AND OTHER CRIMES.

4832. Irregularities in administering oaths—Incompetency of witness no defence.

In general.—Failure to raise the hand, in taking an oath, as required by section 2681, is a mere irregularity, which, under this section, is no defense. *State v. Day*, 121 N. W. 611.

CHAPTER 97.

CRIMES AGAINST THE PERSON.

HOMICIDE.

4876. Murder in the first degree.

Intention and premeditation.—When it clearly appears that defendant deliberately and intentionally shot deceased, the presumption is that it was an act of murder. Premeditation means thought beforehand for any length of time, no matter how short. There need be no appreciable period of time between the conception of the intention and the act of killing. *State v. Prolow*, 98 Minn. 459, 108 N. W. 873.

When the undisputed evidence shows that the homicide was committed with a dangerous weapon with a design to effect death, or under circumstances from which such a design must conclusively be inferred, and after a lapse of time sufficient for passion to subside, the crime is murder, and not manslaughter. *State v. Towers*, 106 Minn. 105, 118 N. W. 361.

Presumptions.—Every homicide is presumed unlawful, and when the mere act of killing is proven it is presumed intentional and malicious. *State v. Prolow*, 98 Minn. 461, 108 N. W. 873.

4877. Murder in second degree.

Cited in *State v. Prolow*, 98 Minn. 459, 108 N. W. 873.

See note under section 4876.

4881. Manslaughter in the first degree.

See section [4881—] 1.

Instructions.—The court should not instruct as to the law of manslaughter, unless there is evidence to establish that crime. *State v. Towers*, 106 Minn. 105, 118 N. W. 361.

[4881—]1. **Same.**—Such homicide is manslaughter in the first degree when committed without a design to effect death, either

1. By a person engaged in committing or attempting to commit a misdemeanor, affecting the person or property, either of the person killed, or of another; or