

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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when ordered, he shall not so recognize, he shall be committed and detained as before provided; whether the person so discharged is recognized, committed, or discharged, any person authorized by the warrant of the executive may at all times take him into custody, and the same is a discharge of the recognizance, if any, and shall not be deemed an escape.

§ 6. **Complainant liable for expenses—discharge on failure to pay.** The complainant in such case shall be answerable for the actual costs and charges, and for the support in prison, of any person so committed, and shall advance to the jailor one week's board at the time of commitment, and so from week to week so long as such persons shall remain in jail; and if he fails so to do, the jailor may forthwith discharge such person from custody.

*§ 7. **Conveying prisoners through this state.** Any person who has been or shall be convicted of or charged with any crime, in any other state or territory of the United States, and who shall be lawfully in the custody of any officer of the state or territory where such offence is claimed to have been committed, may be by said officer conveyed from and through this state, for which purpose said officer shall have all the powers in regard to the control and custody of said prisoner, that an officer of this state has over a prisoner in his charge. (1877, c. 104, § 1.)

CHAPTER CIV.

PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

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§ 1. **Conservators of the peace.** The judges of the several courts of record, in vacation, within their respective districts, as well as in open court, and all justices of the peace, within their respective counties, shall have power to cause all laws made for the preservation of the public peace to be kept, and, in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

§ 2. **Proceedings on complaint to magistrate.** Whenever complaint is made to any such magistrate that any person has threatened to commit an offence against the person or property of another, the magistrate shall examine the complainant and any witness who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

§ 3. **Warrant shall issue, when.** If, upon examination, it appears that there is just cause to fear that any such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it is directed forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

§ 4. **Proceedings on hearing.** The magistrate before whom any person is brought, upon charge of having made threats as aforesaid, shall, as soon as may be, examine the complainant and the witnesses to support the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge which are deemed pertinent.

§ 5. **Examination, how conducted.** After the testimony to support the prosecution is finished, the witnesses for the prisoner, if he has any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross-examination of the witnesses in support of the prosecution.

§ 6. **Recognizance to keep the peace, required, when.** If, upon examination, it appears there is just cause to fear that any such offence will be committed by the party complained of, he shall be required to enter into a recognizance, and with sufficient sureties, in such sum as the magistrate directs, to keep the peace toward all the people of this state, and especially toward the persons requiring such security, for such term as the magistrate orders, not exceeding six months; but he shall not be ordered to recognize for his appearance at the district court, unless he is charged with some offence for which he ought to be held to answer at said court. Upon complying with the order of the magistrate, the party complained of shall be discharged.

§ 7. **If not given party may be committed.** If the person so ordered to recognize refuses or neglects to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he so recognizes, stating in the warrant the cause of commitment, with the sum and time for which security was required.

§ 8. **Accused discharged, when—complainant liable for costs, when.** If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate deems the complaint malicious, or without probable cause, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.

§ 9. **Costs, by whom to be paid, etc.** When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security to keep the peace, or for his good behavior, the magistrate may further order the costs of prosecution, or any part thereof, to be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

§ 10. **Party aggrieved, may appeal.** Any person aggrieved by the order of any justice of the peace requiring him to recognize as aforesaid, may, on giving the security required, appeal to the district court next to be holden in the same county, or that county to which said county is attached for judicial purposes.

§ 11. **Witnesses required to recognize.** The magistrate from whose order an appeal is so taken, shall require such witnesses as he may think necessary to support the complaint, to recognize for their appearance at the court to which appeal is made.

§ 12. **Proceedings in appellate court.** The court before which such appeal is prosecuted, may affirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such

sum and for such time as the court thinks proper, and may also make such order in relation to the costs of prosecution as he deems just and reasonable.

§ 13. *Effect of failure to prosecute appeal.* If any party appealing fails to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

§ 14. *Accused discharged on giving required security.* Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security as was required.

§ 15. *Recognizances to be transmitted to district court.* Every recognizance taken in pursuance of the foregoing provision shall be transmitted by the magistrate to the district court for the county, on or before the first day of the next term, and shall be there filed or recorded by the clerk.

§ 16. *When recognizance may be required without process.* Any person who shall, in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, and being of good behavior, for a term not exceeding six months, and, in case of a refusal, may be committed as before directed.

§ 17. *Carrying dangerous weapons—penalty.* Whoever goes armed with a dirk, dagger, sword, pistol or pistols, or other offensive and dangerous weapons, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

§ 18. *Judgment on recognizance, remitted, when.* Whenever, upon an action brought on any such recognizances, the penalty thereof is adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case render just and reasonable.

§ 19. *Surety may surrender principal—new recognizance may be given.* Any surety in a recognizance to keep the peace, or for good behavior, or both, has authority and right to take and surrender his principal, and, upon such surrender, shall be discharged and exempted from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace, for the residue of the term, and thereupon shall be discharged.