

GENERAL STATUTES

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 2.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOW IN FORCE AND NOT IN
VOL. 1, THE SAME BEING THE CODE OF CIVIL PROCEDURE AND ALL REME-
DIAL LAW, THE PROBATE CODE, THE PENAL CODE AND THE CRIM-
INAL PROCEDURE, THE CONSTITUTIONS AND ORGANIC ACTS.

COMPILED AND ANNOTATED

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CHAPTER 95 (G. S. ch. 109).

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SEC. 6743. **Arraignment.**— When the indictment is filed, the defendant shall be arraigned thereon before the court in which it is found, if it is triable therein; or if not, before the court to which it is sent or removed.

G. S. ch. 109, § 1.

SEC. 6744. **Presence of defendant.**— If the indictment is for a felony, the defendant shall be personally present; but if for a misdemeanor only, his personal appearance is unnecessary, and he may appear upon the arraignment by counsel.

G. S. ch. 109, § 2.

SEC. 6745. **Brought into court.**— When his personal appearance is necessary, if he is in custody, the court may direct the officer in whose custody he is, to bring him before it to be arraigned.

G. S. ch. 109, § 3.

SEC. 6746. **Bench-warrant may issue.**— If the defendant has been discharged on bail, or has deposited money instead thereof, and does not appear to be arraigned when his personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail, or the money deposited, may direct the clerk to issue a bench-warrant for his arrest.

G. S. ch. 109, § 4.

SEC. 6747. **How issued.**— The clerk, on the application of the county attorney, may accordingly, at any time after the order, whether the court is sitting or not, issue a bench-warrant, into one or more counties.

G. S. ch. 109, § 5.

SEC. 6748. **Bench-warrant in felony.**— The bench-warrant upon the indictment shall, if the offence is a felony, be substantially in the following form:

The District Court for the County of —, and State of Minnesota.
THE STATE OF MINNESOTA, To any Sheriff, (or other proper officer):

An indictment having been found on the — day of —, A. D. 18—, in the district court for the county of —, charging C. D. with the crime of (designating it generally,) you are therefore commanded forthwith to arrest the above named C. D., and bring him before this court (or if the venue has been changed, take him before that court, as the case may be,) to answer the indictment, or if the court has adjourned for the term, that you deliver him into the custody of the jailor of the county (or city,) of —, the — day of —, A. D. 18—.

Witness the Honorable — —.

By order of the court.

E. F., Clerk.

G. S. ch. 109, § 6.

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[SECS. 6749-6758.]

SEC. 6749. **Bench-warrant in misdemeanors.**—If the offence is a misdemeanor, the bench-warrant shall be in a similar form, adding to the body thereof a direction to the following effect: "or, if he requires it, that you take him before any magistrate in that county, or in the county in which you arrest him, that he may give bail to answer the indictment."

G. S. ch. 109, § 7.

SEC. 6750. **Bench-warrant, how served.**—The bench-warrant may be served in any county, in the same manner as a warrant of arrest.

G. S. ch. 109, § 9.

SEC. 6751. **Court to fix amount of bail.**—If the offence charged is bailable, the court, upon directing the bench-warrant to issue, may fix the amount of bail; and in such case an indorsement shall be made upon the bench-warrant, and signed by the clerk, to the following effect: "the defendant is to be admitted to bail in the sum of — dollars."

G. S. ch. 109, § 8.

SEC. 6752. **Proceedings before magistrate.**—If the defendant is brought before a magistrate of another county, for the purpose of giving bail, the magistrate shall proceed in respect thereto in the same manner as if the defendant had been brought before him on a warrant of arrest.

G. S. ch. 109, § 10.

SEC. 6753. **Same.**—On taking bail, the magistrate shall certify that fact on the warrant, and deliver the warrant and recognizance to the officer having charge of the defendant; the officer shall then discharge the defendant from arrest, and without delay deliver the warrant and recognizance to the clerk of the court at which the defendant is required to appear.

G. S. ch. 109, § 11.

SEC. 6754. **Court may order commitment.**—When the indictment is for felony, and the defendant, before the finding thereof, has given bail for his appearance to answer the charge, the court to which the indictment is presented or sent, or removed for trial, may order the defendant to be committed to actual custody, unless he give bail in the increased amount to be specified in the order.

G. S. ch. 109, § 12.

SEC. 6755. **Enforced by bench-warrant.**—If the defendant is present when the order is made, he shall be forthwith committed; if he is not present, a bench-warrant shall be issued and proceeded upon in the manner provided in this chapter.

G. S. ch. 109, § 13.

SEC. 6756. **Defendant's right to counsel.**—If the defendant appears for arraignment without counsel, he shall be informed by the court that it is his right to have counsel before being arraigned, and shall be asked if he desires the aid of counsel.

G. S. ch. 109, § 14.

SEC. 6757. **Arraignment, how made.**—The arraignment shall be made by the court, or by the clerk or county attorney under its direction, and consists in reading the indictment to the defendant, and delivering to him a copy thereof, and of the indorsements thereon, including the list of witnesses indorsed on it or appended thereto, and asking him whether he pleads guilty or not guilty to the indictment.

G. S. ch. 109, § 15.

SEC. 6758. **Defendant to be asked his true name.**—When the defendant is arraigned, he shall be informed that if the name by which he is indicted is not his true name, he shall then declare his true name, or be proceeded

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against by the name in the indictment. If he gives no other name, the court may proceed accordingly.

G. S. ch. 109, § 16.

SEC. 6759. **Proceedings when another name is given.**— If he alleges that another name is his true name, the court shall direct an entry thereof in the minutes of the arraignment; and the subsequent proceedings on the indictment may be had against him by that name, referring also to the name by which he is indicted.

G. S. ch. 109, § 17.

SEC. 6760. **Time to plead.**— If, on the arraignment, the defendant requires it, he shall be allowed until the next day, or such further time may be allowed him as the court deems reasonable, to answer the indictment.

G. S. ch. 109, § 18.

SEC. 6761. **Demurrer — Plea — Motion.**— If the defendant does not require time, as provided in the last section, or if he does, then on the next day, or at such further day as the court may have allowed him, he may, in answer to the arraignment, either move the court to set aside the indictment, or may demur or plead thereto.

G. S. ch. 109, § 19.