

79

THE

GENERAL STATUTES

OF THE

STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

COMPILED AND EDITED BY
HENRY B. WENZELL, Assisted by EUGENE F. LANE

WITH ANNOTATIONS BY
FRANCIS B. TIFFANY and Others

AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL
REPORTER SYSTEM

COMPLETE IN TWO VOLUMES

VOL. 1

CONTAINING THE CONSTITUTION OF THE UNITED STATES, THE ORDINANCE OF 1787,
THE ORGANIC ACT, ACT AUTHORIZING A STATE GOVERNMENT, THE STATE
CONSTITUTION, THE ACT OF ADMISSION INTO THE UNION, AND

Sections 1 to 4821 of the General Statutes

ST. PAUL, MINN.
WEST PUBLISHING CO.

1894

CHAPTER 17.

BASTARDS.

§ 2039. Complaint before justice—Warrant to issue.

On complaint being made to any justice of the peace, by any female who is delivered of a bastard child, or pregnant with a child, which, if born alive, might be a bastard, accusing any person of being the father of such child, the justice shall take such complaint in writing, under the oath of such female, and shall thereupon issue his warrant against the person accused, directed to the sheriff or any constable of his county, commanding him forthwith to bring such accused person before the justice to answer such complaint.

(G. S. 1866, c. 17, § 1; G. S. 1878, c. 17, § 1.)

For the sufficiency of the complaint, see *State v. Snure*, 29 Minn. 132, 12 N. W. Rep. 347; *State v. Smith*, 47 Minn. 475, 50 N. W. Rep. 605.

It is not necessary that the warrant set forth with particularity the facts contained in the complaint. *State v. Klitzke*, 46 Minn. 343, 49 N. W. Rep. 54.

2039
63-NW 1086
2039
61-M - 416
2039-2053
75-NW 893
2039-2053
73-M - 101
78-M - 218
80-NW 962
83-NW 141

§ 2040. Action, how entered—Proceedings on return of warrant.

The justice shall enter an action in his docket in which the state of Minnesota is plaintiff, and the accused is defendant, and shall make such other entries as are required in criminal actions. On the return of the warrant with the accused, the justice shall proceed to examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and such examination shall be reduced to writing by the justice. The accused shall be entitled to a removal of such action as in criminal examination before justices of the peace.

(G. S. 1866, c. 17, § 2; G. S. 1878, c. 17, § 2; as amended 1889, c. 89, § 1.)

The omission of the justice to entitle the proceedings in his docket, their nature, and the parties fully appearing therein, is only an irregularity, and should be disregarded. *State v. Snure*, 29 Minn. 132, 12 N. W. Rep. 347.

2039
84-NW 340

§ 2041. Defendant discharged, when.

If such accused person pays or secures to be paid to the female complaining, such sum of money or other property, as she may agree to receive in full satisfaction, and as is approved by the commissioners of the county, of which agreement and approval the justice shall make a memorandum upon his docket, and shall also pay all expenses, if any, incurred by such county for the lying-in, and support and attendance upon the mother of such child during her sickness, and the costs of prosecution, and shall also give bond with sufficient sureties, to be approved by the justice, to the commissioners of the county in which such female resides, and their successors in office, conditioned to secure and indemnify such county from all charges for the maintenance of the child born or that may be born, the justice shall discharge such accused person.

(G. S. 1866, c. 17, § 3; G. S. 1878, c. 17, § 3.)

A discharge after examination is no bar to a subsequent complaint, and will not be reviewed on certiorari. *State v. Linton*, 42 Minn. 32, 43 N. W. Rep. 571.

The settlement provided for in this section is the only one which authorizes a discharge. As to the effect of a release by the mother. *State v. Dougher*, 47 Minn. 436, 50 N. W. Rep. 475.

2041
75-NW 725
2041
72-M - 417

§ 2042. Recognizance required of defendant.

In case any person accused as aforesaid does not comply with the provisions of the preceding section, and there is probable cause for believing that he is guilty as charged in the complaint, the justice shall require such person to enter into a recognizance, with one or more sufficient sureties, to be approved by the justice, in a sum not less than one hundred dollars, nor more than five

hundred dollars, to appear at the next term of the district court for the proper county, to answer the said complaint, and abide the order of said court thereon; and on his neglect or refusal to give such recognizance, the justice shall commit him to the jail of the county, there to be held to answer such complaint at the next term of such court; and such justice shall thereupon certify the examination so taken before him, and return the same, and all process and papers in the case, to the clerk of said court,

(G. S. 1866, c. 17, § 4; G. S. 1878, c. 17, § 4.)

§ 2043. Proceedings in district court.

If, at the next term of said court, the complainant has not been delivered or is not able to attend, or if at any time there is any other sufficient reason therefor, the court may order a continuance of the cause, and such continuance shall operate to renew the recognizance, and the same shall remain in full force until final judgment: provided, that if the sureties in the recognizance shall at any term of said court surrender the accused, and request to be discharged from such recognizance, or if the court shall, for any cause, deem it proper, such court may order a new recognizance to be taken, and commit the defendant until he give such new recognizance

(G. S. 1866, c. 17, § 5; G. S. 1878, c. 17, § 5.)

2044
75-NW 725

§ 2044. Trial, how conducted—Judgment.

Upon the trial of the action the issue shall be whether the accused is guilty or not guilty; and if he is found guilty, or if he admits the truth of the accusation, he shall be adjudged to be the father of such child, and be charged with the maintenance thereof, in such sum or in such manner as the court may direct, together with the costs of prosecution; and the examination taken before the justice shall in all cases be read to the jury, when the reading of the same is demanded by the accused.

(G. S. 1866, c. 17, § 6; G. S. 1878, c. 17, § 6.)

The court may make a reasonable allowance for the past as well as the future maintenance of the child, including the lying-in expenses to be paid the mother for her use, when not paid or incurred by the public. *State v. Zeitler*, 35 Minn. 238, 28 N. W. Rep. 501; *State v. Eichmiller*, 35 Minn. 240, 28 N. W. Rep. 503.

A judgment not specifying the number of years during which the payments are to continue, is not on that account erroneous. *State v. Eichmiller*, 35 Minn. 240, 28 N. W. Rep. 503.

2044 89-M - 384
2044 62LRA 757

2045 89-M - 384

§ 2045. Defendant to give bond or stand committed.

The person so adjudged to be the father of such child shall give bond to the commissioners of the proper county, with sufficient sureties, to be approved by the court, for the performance of such judgment and order, and also for the payment of all expenses incurred by the county for lying-in, support of, and attendance upon the mother of such child during her sickness, and also for the care and support of such child prior to the giving of such bond; and in case he neglects or refuses to give such bond and pay the costs of prosecution, he shall be committed to the jail of the county, there to remain until he complies with the order of the court, or is discharged therefrom as provided by law.

(G. S. 1866, c. 17, § 7; G. S. 1878, c. 17, § 7.)

This section is valid, and not in conflict with either §§ 7 or 12, art. 1, of the Constitution. *State v. Becht*, 23 Minn. 1.

Under what circumstances the putative father may be relieved from the bond for maintenance, see *Olson v. Johnson*, 23 Minn. 301.

Chap. 19 92-M - 500

2046
78-M - 378
79-M - 27
81-NW 536

§ 2046. Prisoner may petition for discharge.

Any person who has been imprisoned ninety days for having failed to comply with the judgment and order of the district court, as provided in this chapter, may apply to said court or the judge thereof, by petition, setting forth his inability to comply with such judgment and order, and praying to be discharged from imprisonment, and shall attach thereto a schedule of all his property, money and effects, whether exempt from execution or otherwise, verified by his affidavit; and thereupon said court or judge shall appoint a time and place of hearing said application, of which the petitioner shall give

at least fifteen days' notice to the complainant and the board of county commissioners of the county interested.

(G. S. 1866, c. 17, § 8; G. S. 1878, c. 17, § 8.)

§ 2047. Proceedings on hearing of petition.

At the time and place of hearing said application, the petitioner shall be examined on oath as to the facts set forth in his petition, and his ability to comply with such judgment and order; and any other legal evidence, may be produced by the petitioner, complainant or commissioners.

(G. S. 1866, c. 17, § 9; G. S. 1878, c. 17, § 9.)

§ 2048. Discharge—When granted.

If upon such hearing it appears that the petitioner is unable to comply with such judgment and order, the court or judge may direct his discharge from custody upon his taking an oath that he has not in his own name any estate, real or personal, and has not any such estate conveyed or concealed, or in any manner disposed of, with design to secure the same to his use, or to avoid in any manner compliance with said judgment and order: *provided*, that the court may, upon the proof offered upon such application, discharge such prisoner, or make such proper order respecting any property, real or personal, the defendant may own or possess, having reference to the condition of the defendant and his family, if a married man, as the justice of the case may require in connection with such discharge.

(G. S. 1866, c. 17, § 10; G. S. 1878, c. 17, § 10; as amended 1879, c. 7, § 1.)

The amendment is to c. 28, tit. 6, § 53, St. at Large, (Bissell.)

§ 2049. Action against discharged prisoner.

The mother of such child, and the said board of commissioners, respectively, may at any time after the discharge of such prisoner, recover by action any sum of money which ought to have been paid to them respectively by him, in pursuance of such judgment and order of the court.

(G. S. 1866, c. 17, § 11; G. S. 1878, c. 17, § 11.)

2049
75-NW 726

2049
72-M - 417

§ 2050. Same—Commissioners may prosecute, when.

When said mother commences any such action, and fails to prosecute the same, the commissioners of the proper county, or any person interested in the support of such bastard, may prosecute the same to final judgment.

(G. S. 1866, c. 17, § 12; G. S. 1878, c. 17, § 12.)

§ 2051. Complaint by county commissioners.

If any female is delivered of a bastard child, which is a public charge, or likely to become a public charge, or is pregnant of a child likely to be born a bastard and become a public charge, the board of commissioners of the county where such female resides, or any of them, may, upon application for aid in supporting such child by the mother thereof, or, if they deem proper, without such application, apply to some justice of the peace of the same county to make inquiry into the facts and circumstances of the case.

(G. S. 1866, c. 17, § 13; G. S. 1878, c. 17, § 13.)

§ 2052. Same — Warrant against reputed father.

The justice shall examine such female on oath respecting the father of such child, the time when and the place where said child was begotten, and such other circumstances as the justice deems necessary for the discovery of the truth; and shall thereupon issue his warrant to apprehend the reputed father; and the same proceedings shall be thereupon had as if complaint had been made by such female, as prescribed in the foregoing provisions of this chapter, and with the like effect; any warrant issued under the provisions of this chapter may be executed in any part of the state; and in all cases said commissioners and the accused may require the attendance of such female to testify, the same as witnesses in other cases.

(G. S. 1866, c. 17, § 14; G. S. 1878, c. 17, § 14.)

§ 2053. Compromise—Power of commissioners.

The county commissioners, before or after judgment in any case under this chapter, may make such compromise and arrangement with the putative father of any bastard child in such county, relative to the support of such child, as they deem equitable and just, and thereupon may discharge such putative father from all liability for the support of such bastard.

(G. S. 1866, c. 17, § 15; G. S. 1878, c. 17, § 15; as amended 1883, c. 52, § 1.)

(556)