

# REVISED LAWS

# MINNESOTA

## 1905

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EDITED AND ANNOTATED BY  
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36-234, 30+764; 54-195, 55+959; 54-105, 55+903). The rule is otherwise on a prosecution for keeping a licensed saloon open during prohibited hours (84-370, 87+915. See § 1566).

**12. Proof of liquor sold**—It is unnecessary to prove the particular kind of intoxicating liquor sold (§ 1566; 30-52, 14+258; 80-314, 83+182. See 40-55, 41+299; 23-549). Proof of the sale of what appeared to be intoxicating liquor is prima facie proof of the sale of intoxicating liquor (§ 1566; 47-375, 50+362; 54-105, 55+903).

**13. Variance**—23-549; 26-526, 6+339; 26-148, 1+1054; 30-52, 14+258; 40-55, 41+299; 54-105, 55+903; 54-195, 55+959; 80-314, 83+182.

**14. Evidence admissible**—38-143, 36+443; 38-229, 36+447; 38-497, 38+691; 43-373, 45+712; 74-463, 77+301; 84-444, 87+1130; 86-174, 90+318; 89-205, 94+675; 89-506, 95+1133; 103+727.

**15. Sufficiency of the evidence**—Evidence held sufficient to warrant a conviction for selling liquor to a minor (74-292, 77+48; 104+898); for selling liquor without a license (86-121, 90+161, 1133; 87-5, 91+26; 54-105, 55+903; 89-502, 95+449); for selling liquor on Sunday (47-375, 50+362); for keeping a saloon open on Sunday (58-193, 59+999). A single sale to an habitual drunkard by a clerk of the accused held insufficient to warrant a conviction (23-181). Evidence held insufficient to justify a conviction for keeping open after 11 o'clock (84-370, 87+915).

**16. Punishment**—Acts which are punishable under the general law may also be made punishable by ordinance and the punishment need not be the same (21-202; 50-128, 52+387; 84-367, 87+916). A commitment to the county jail to await the payment of a fine held proper (38-143, 36+443). Punishment allowable under Minneapolis charter defined (76-1, 78+877).

## CHAPTER 17

### BASTARDS

**1567. Complaint—Warrant**—On complaint being made to a justice of the peace by any woman 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 the complaint in writing, under her oath, and thereupon shall issue his warrant, directed to the sheriff or any constable of his county, commanding him forthwith to bring such accused person before him to answer such complaint; which warrant may be executed anywhere within the state. (2039, 2052)

Requisites of complaint (29-132, 12+347; 47-475, 50+605; 81-501, 84+340). Requisites of warrant (46-343, 49+54). Nature and object of act and proceedings thereunder (23-1; 29-132, 12+347; 35-238, 28+501; 41-196, 42+933; 72-415, 75+725; 94-177, 102+204).

**1568. Action, how entered—Proceedings**—The justice shall enter an action in his docket, in which the state shall be plaintiff and the accused 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 examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and shall reduce such examination to writing. (2040)

Scope of proceedings (42-32, 43+571). Failure to make docket entries held immaterial (29-132, 12+347).

**1569. Defendant discharged, when**—If the defendant pays, or secures to be paid, to the complainant such sum of money or other property as she, with the written approval of the county board, may agree to receive in full satisfaction, a memorandum of which agreement and approval the justice shall enter in his docket, and shall also pay the costs of prosecution and the expenses incurred by such county for the lying-in and support of and attendance upon the mother during her sickness, and give bond to the county, approved by the justice, conditioned to indemnify such county against all charges for the maintenance of the child born, or that may be born, the justice shall discharge him. (2041)

Exclusive mode of settlement. Release by mother not a bar (47-436, 50+475). Discharge by one justice not a bar to fresh proceedings before another justice (42-32, 43+571). Cited (35-238, 28+501; 72-415, 417, 75+725; 94-177, 102+204).

**1570. Recognizance**—If the defendant does not comply with the provisions of § 1569, and there is probable cause to believe him guilty as charged in the

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complaint, the justice shall require him to enter into a recognizance, with sureties approved by the justice, in a sum not less than one hundred dollars nor more than five hundred dollars, to appear before the district court of the proper county at the next term thereof, and answer said complaint and abide the order of such court thereon. If he fails to give such recognizance, the justice shall commit him to the county jail, there to be held to answer such complaint at the next term of such court. Thereupon the justice shall certify the examination, and return the same and all process and papers in the case to the clerk of such court. (2042)

Return held sufficient (29-132, 12+347).

**1571. Proceedings in district court**—At the next term of said court, if the complainant has not been delivered or is not able to attend, or for any other sufficient reason, the court may continue the cause, and such continuance shall renew the recognizance, which shall remain in force until final judgment. If the sureties shall at any term of court surrender the defendant and ask to be discharged, or if the court shall at any time deem it proper, it may order a new recognizance to be taken, and commit the defendant until it is given. (2043)

**1572. Trial—Judgment**—Upon trial, the issue shall be whether the defendant is guilty or not guilty. If he is found guilty, or admits the truth of the accusation, he shall be adjudged to be the father of such child, and be charged with its maintenance in such sum, or in such manner, as the court may direct, together with the costs of prosecution. The examination taken before the justice shall in all cases be read to the jury when demanded by the defendant. (2044)

Evidence (23-528; 29-132, 12+347; 35-240, 28+503; 46-343, 49+54; 47-475, 50+605; 73-101, 75+893; 78-218, 80+962). Corroboration of complainant unnecessary (29-357, 13+153; 41-196, 42+933). Burden of proof on issue of marriage (23-528). Proof beyond reasonable doubt unnecessary. Fair preponderance of evidence sufficient (29-357, 13+153; 35-240, 28+503; 41-196, 42+933). Evidence held sufficient to sustain conviction (80-221, 83+141; 29-132, 12+347; 81-501, 84+340; 46-343, 49+54). Marriage as a defence (23-528). Release by mother not a bar (47-436, 50+475). County attorney may comment on failure of defendant to take stand (29-132, 12+347), but not on resemblance of child to defendant (81-501, 84+340). Oath to jury as in civil cases (23-528). Instructions to jury (61-415, 63+1085; 35-240, 28+503; 72-415, 75+725; 78-218, 80+962). Judgment for maintenance, etc. (35-238, 28+501; 35-240, 28+503; 72-415, 75+725; 47-436, 50+475; 94-177, 103+204). Judgment binding though mother deserts child (23-301). Judgment not admissible against defendant in subsequent prosecution for seduction (41-196, 42+933). Effect of bankruptcy (89-383, 95+223). Appeal (46-343, 49+54; 63-328, 65+639).

**1573. Defendant to give bond or be committed**—The person so adjudged to be the father of such child shall give bond to the county, 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 the lying-in and support of, and attendance upon, the mother during her sickness, and for the care and support of such child prior to the giving of such bond. If he fails to give such bond and to pay the costs of prosecution, he shall be committed to the county jail, there to remain until he complies with such order or is discharged as provided by law. (2045)

Constitutional (23-1). Relief from bond (23-301). Cited (89-383, 95+223).

**1574. Petition for discharge—Notice**—Any person who has been imprisoned ninety days for failure to comply with any such judgment and order may apply to said court, by petition setting forth his inability to comply therewith, and praying to be discharged from imprisonment, and shall attach to such petition a verified schedule of all his property, money, and effects, whether exempt from execution or otherwise. Thereupon the court shall appoint a time and place for hearing said application, of which the petitioner shall give at least fifteen days' notice to the complainant and county board. (2046)

78-377, 81+9; 79-27, 81+536.

**1575. Hearing—Discharge**—At the hearing the defendant shall be examined on oath in reference to the facts set forth in such petition and his

ability to comply with such judgment and order, and any other legal evidence in reference to such matters may be produced by any of the parties interested. If it appears that the defendant is unable to comply with such judgment and order, the court may direct his discharge from custody, upon his making affidavit that he has not in his own name any property, real or personal, and has no such property 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 such judgment and order. If upon such hearing it appears that the defendant has property, but not sufficient to comply with such judgment and order, the court may make such order concerning the same, in connection with such discharge, as justice may require. (2047, 2048)

**1576. Action after discharge**—The mother of such child, or such county board, at any time after the defendant is discharged, may recover of him by action any sum of money which ought to have been paid pursuant to such judgment and order; and, if the mother shall fail to prosecute any such action begun by her, the county board, or any person interested in the support of such child, may prosecute the same to final judgment. (2049, 2050)

35-238, 28+501; 72-415, 417, 75+725; 94-177, 102+204.

**1577. Complaint by county board**—If any woman is delivered of a bastard child which is, or is likely to become, a public charge, or is pregnant with a child likely to be born a bastard and become a public charge, the county board of the county where she resides, or any member thereof, may apply to a justice of the peace of the county to inquire into the facts and circumstances of the case. (2051)

94-177, 102+204.

**1578. Procedure—Warrant**—Such justice may summon the woman to appear before him, and may examine her on oath respecting the father of such child, the time when and place where it was begotten, and any other facts he deems necessary for the discovery of the truth, and thereupon shall issue his warrant to apprehend the putative father. Thereafter the proceedings shall be the same as if the complaint had been made by such woman under the provisions of this chapter, and with like effect, and in all cases the board and the accused may require the attendance of such woman as a witness. (2052)

**1579. Compromise by board**—The county board, either before or after judgment, may make such compromise and settlement with the putative father of any bastard child, relative to its support, as they deem equitable and just, and thereupon may discharge him from all liability for the support of such child. (2053)

94-177, 102+204.

## CHAPTER 18

### PUBLIC EXAMINER

**1580. Term—Qualifications—Bond**—The governor, by and with the advice and consent of the senate, shall appoint a public examiner for the term of three years and until his successor qualifies; and in case of a vacancy in such office it shall be filled by like appointment for the remainder of the term. Such examiner shall be a skilled bookkeeper and accountant, and shall not, at the time of his appointment or at any time while in office, hold any other public office under the state, or under any county, municipality, or public institution therein, nor shall he be a stockholder, officer, trustee, assignee, or employee of any banking, savings, or other moneyed institution or corporation created under the laws thereof. He shall give bond to the state in the sum of fifty thousand dollars, to be approved by the governor, conditioned for the faithful discharge of his duties. (410)

85-165, 197, 88+533.