

GENERAL STATUTES

OF

MINNESOTA

1913

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3206. License, how granted—Term—Licenses for the manufacture, sale, exchange, barter, disposition of or giving away or keeping for sale of cigarettes, cigarette paper or cigarette wrappers made or prepared for the purpose of being filled with tobacco for smoking, may be granted by the council of the municipality wherein such right is sought to be exercised, or if outside of a municipality, by the county board. Every such license shall continue for a period of two years from its date unless sooner revoked for a violation of this or subsequent laws and shall name the licensee and the place wherein he is authorized to conduct such business. And the fee for such license shall be \$25.00. ('13 c. 580 § 6)

3207. Application for license—Every person desiring a license under this act shall file with the clerk or recording officer of the municipality, or if such license is desired outside of a municipality with the county auditor, a written application therefor stating the person, for whom, and place for which it is desired and shall deposit therewith the amount of the license fee. ('13 c. 580 § 7)

3208. Transfer of license—In case of a change of ownership in any licensed location the authority granting the license may authorize it transferred to the new owner. ('13 c. 580 § 8)

3209. Penalty for violation—Any person violating any of the provisions of this act except as herein provided for violation of sections 1 and 3 [3201, 3203], hereof, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one hundred dollars, or imprisoned in the county jail for not to exceed sixty (60) days, or both such fine and imprisonment for each and every violation hereof. ('13 c. 580 § 9)

3210. State dairy and food commissioner—Powers and duties—The state dairy and food commissioner, his assistants and employees, shall enforce the provisions of this act and in so doing shall have all the powers and authority with relation thereto that are conferred upon them and each of them by chapter 21, Revised Laws 1905; and the provisions of section 1736, 1776, 1777, 1778 and 1779, Revised Laws 1905 [3640, 3745-3748], shall be deemed a part hereof in the enforcement of this act and accomplishment of its purposes. ('13 c. 580 § 10)

The provisions of R. L. 1905 c. 21 are included in chapter 21 hereof.

3211. Fines and fees, how disposed of—All moneys collected as fines and fees under the provisions of this act shall be divided, one-half to the common school fund of the district wherein the conviction is had, and one-half to the person through whose information the conviction is had. ('13 c. 580 § 11)

3212. Second conviction—Termination of license—A second conviction under this act shall immediately terminate the license of the person so convicted, and such person shall not be entitled to another license hereunder for a period of five years thereafter. ('13 c. 580 § 12)

3213. Acts repealed—All acts and parts of acts inconsistent with this act are hereby repealed. ('13 c. 580 § 13)

CHAPTER 17

BASTARDS

3214. 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. (1567)

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).

3215. 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. (1568)

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

Where defendant testified without objection to complainant's absence, he waived her examination, and the justice had jurisdiction (101-535, 111+733).

3216. Defendant discharged, when—If at any time before trial, as provided in § 3219, the defendant pays, or secures to be paid, to the complainant such sums of money or other property, as she, with the written approval of the county attorney and the chairman of the county board, or by the county board, may agree to receive in full satisfaction, 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 bond be given to the county, by either the defendant or the complainant, approved by the county attorney and the chairman of the county board, or the county board, conditioned to indemnify such county against all charges for the maintenance of the child born, or that may be born, the justice of the peace, or the judge of the court in which the action is pending, shall discharge the defendant. If at the time of such settlement, the action be pending before a justice of the peace, he shall enter in his docket, a memorandum of such agreement, approvals and bond. If at the time of such settlement, the action be pending in municipal or district court, such agreement, approvals and bond shall be filed with the clerk of the court in which such action is pending. It shall be the duty of the county attorney to prosecute all proceedings under this act, in any court of this state. (R. L. § 1569, amended '09 c. 275; '13 c. 71 § 1)

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).

3217. Recognizance—If the defendant does not comply with the provisions of § 3216, and there is probable cause to believe him guilty as charged in the 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. (1570)

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

3218. 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. (1571)

3219. 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. (1572)

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 (29-132, 12+347; 46-343, 49+54; 80-221, 83+141; 81-501, 84+340). Evidence held insufficient (102-419, 113+1059). 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 (35-240, 28+503; 61-415, 63+1085; 72-415, 75+725; 78-218, 80+962). Judgment for maintenance, etc. (35-238, 28+501; 35-240, 28+503; 47-436, 50+475; 72-415, 75+725; 94-177, 102+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, 62 L. R. A. 757, 99 Am. St. Rep. 606). Appeal (46-343, 49+54; 63-328, 65+639).

3220. 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. (1573)

Constitutional (23-1). Relief from bond (23-301). Cited (89-383, 95+223, 62 L. R. A. 757, 99 Am. St. Rep. 606).

3221. 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 statement 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 ten days' notice to the complainant, if a resident of the state, and to said county board. (R. L. § 1574, amended '13 c. 494 § 1)

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

3222. 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. (1575)

3223. 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. (1576)

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

3224. 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. (1577)

94-177, 102+204.

3225. 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. (1578)

3226. 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. (1579)

94-177, 102+204.

CHAPTER 18

PUBLIC EXAMINER

3227. Department established—Powers and duties—There is hereby established and continued within the state of Minnesota the department of public examiner, which shall have the duty and power to supervise all public accounts, to prescribe and install systems of accounts and reports, to inspect all records and transactions connected with the receipt, disbursement and custody of public funds, to investigate the use and security of all public appropriations and property, to ascertain the sources and condition of the public revenue, investments, loans and debt, to verify the public funds and examine and report upon the condition and security thereof, and the chief of this department shall be known as the public examiner. ('13 c. 555 § 1)

Section 14 repeals all inconsistent laws, etc. This act supersedes R. L. c. 18, as amended 1909 c. 449, and by 1905 c. 223, 1907 c. 344, 1909 c. 264, and 1913 c. 154.
85-165, 197, 88+533.

3228. Public examiner—Term—Qualification—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 the governor shall appoint a successor for the remainder of said term; provided, that nothing in this act shall effect the term of the present public examiner. Such examiner shall be a skilled accountant, and shall not at any time while in office hold any other public office, or own any stock or have any commercial interest in any corporation, copartnership, property or business subject to supervision and examination by this department. He shall give bond to the state in the sum of fifty thousand dollars, to be approved by the governor and attorney-general, conditioned for the faithful discharge of his duties. ('13 c. 555 § 2)

3229. Duties—State offices, institutions, properties, industries and improvements—Said examiner shall exercise a constant supervision over the books and accounts of the several public offices, institutions, properties, industries, and improvements of the state, and over the financial records and transactions of public boards, associations, and societies supported wholly or in part by state funds. In all offices where the records of such public affairs are kept and the finances thereof handled, he shall enforce, correct methods of accountancy and, in his discretion, prescribe and install systems of accounts and financial reports. Once in each year without previous notice, he shall visit each of such offices, institutions and industries, and, so far as practicable, inspect such properties and improvements, and he shall thoroughly examine the books and accounts thereof, verifying the funds, securities and