

MASON'S MINNESOTA STATUTES

1927

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THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED
BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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issued out of said United States Court naming the time and place where said prisoner shall be wanted for trial, and (b) directing said Warden, Superintendent, or Keeper of such penal institution, to retain custody of said prisoner during such trial and at the conclusion of said trial after judgment shall have been pronounced by said United States District Court, to return said prisoner to the Minnesota penal institution from which he was taken, to be there kept until released pursuant to the laws of the State of Minnesota, and prior to the time for the release of any such prisoner who shall be under sentence in the United States District Court, the Warden, Superintendent, or Keeper of the penal institution in which such prisoner is in custody shall notify the United States Marshal in and for the District of Minnesota and shall at the time of such release surrender such prisoner to him to be dealt with in ac-

cordance with the laws of the United States. ('27, c. 141)

9950-4. Transfer of female prisoners—Female to accompany—Every sheriff and every other person having the legal custody of any female person charged with crime or the detention of any female person are hereby required when such female person is being conducted to or from one place to another over 25 miles apart to have a suitable female person accompany such female person and every sheriff in every county of this state is hereby authorized to employ when the occasion exists a suitable female person to carry out the provisions of this act. The expenses of such employment shall be paid out of any county funds not otherwise appropriated. ('27, c. 213, § 1)

Explanatory note—Section 2 of Laws 1927, c. 213 repeals all inconsistent acts or parts of acts.

CHAPTER 93-A

PREVENTION AND CONTROL OF CRIME—BUREAU OF CRIMINAL APPREHENSION.

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9950-5. Bureau created—A bureau of the state government under the attorney general is hereby created and is designated as the Bureau of Criminal Apprehension. ('27, c. 224, § 1)

9950-6. Superintendent—Appointment, term of office, removal, vacancy in office and salary—Rules and regulations made by—Bureau to assist sheriffs—Said bureau shall be under the supervision and control of a superintendent, who shall be appointed by the governor by and with the consent of the Senate. The term of office of the superintendent first appointed shall continue until February 1, 1929, and thereafter the term shall be two years. The incumbent shall serve until a successor is appointed and qualified. The governor may remove the superintendent at any time at his pleasure. Any vacancy shall be filled for the unexpired portion of the term. The superintendent shall receive a salary of five thousand dollars per year, payable semi-monthly, and shall devote his entire time to the duties of his office. The superintendent from time to time shall make such rules and regulations and adopt such measures as he deems necessary, within the provisions and limitations of this act, to secure the efficient operation of the bureau. The bureau shall,

when requested by the sheriff of any county, furnish him assistance in the co-ordination of his work with other peace officers throughout the state and in promoting greater efficiency in detecting and apprehending criminals and enforcing the criminal laws of the state. ('27, c. 224, § 2)

9950-7. Employees of bureau—Identification expert—Expenses of superintendent and employees—The superintendent is hereby authorized to appoint and remove at his pleasure and to prescribe the duties of such skilled and unskilled employes, including an identification expert who shall be the assistant superintendent, as may be necessary to carry out the work of said bureau, but not exceeding twelve in number. The superintendent and all officers and employes of said bureau shall, in addition to their compensation, receive their actual and necessary expenses incurred in the discharge of their duties, provided that the total expense of said bureau during any year shall not exceed the appropriation therefor. ('27, c. 224, § 3)

9950-8. Bonds of superintendent and employees—The superintendent and each employe in the bureau whom he shall designate shall, before entering upon the performance of his duties under this act, give bond to the state, in such amount as the governor shall direct and approve, conditioned for the faithful performance of his duties. If a surety bond is given, the premium thereon shall be paid as an expense of the bureau, upon the approval of the amount of the premium by the commission of administration and finance. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of either the superintendent or any of such employes in the performance of his duties under this act may maintain an action on such bond for the recovery of damages so sustained. ('27, c. 224, § 4)

9950-9. System for identification of criminals—Records and indexes—The bureau shall install systems of identification of criminals, including the fingerprint system, the modus operandi system, the Bertillon method, and such others as the superintendent deems proper. Said bureau shall keep a complete record and index of all information received in convenient form for

consultation and comparison. Said bureau shall obtain from wherever procurable and file for record finger and thumb prints, measurements, photographs, plates, outline pictures, descriptions, modus operandi statements, or such other information as the superintendent considers necessary, of persons who have been or shall hereafter be convicted of a felony or an attempt to commit a felony within the state, or who are known to be habitual criminals. To the extent that the superintendent may determine it to be necessary, said bureau shall obtain like information concerning persons convicted of a crime under the laws of another state or government. ('27, c. 224, § 5)

9950-10. Taking of finger prints, Bertillon measurements, photographs, etc.—Powers of sheriffs and police officers—All sheriffs and deputies in their respective counties with the consent of the judge of the District court or a court commissioner of or for the county in which the arrest is made and all police officers in cities of the first class under the direction of the chief of police in such cities, shall have the power to take or cause to be taken finger and thumb prints, bertillon measurements, photographs and other identification data; (a) of all persons arrested for felony, (b) of all arrested persons believed by the arresting officer to be fugitives from justice (c) of all persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high power explosives, or articles, machines or appliances usable for an unlawful purpose and believed by the arresting officer to be intended for such purposes. ('27, c. 224, § 6)

9950-11. Same—Prints, etc., furnished to bureau by sheriffs and chiefs of police—The sheriff of each county and the chief of police of each city of the first class, shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, bertillon measurements, photographs and other identification data, which may be taken under the provisions of Section 6 of this act, of persons who shall be convicted of a felony or who shall be found to have been convicted of a felony within ten years next preceding their arrest. Upon the determination of all pending criminal actions or proceedings in favor of the arrested person, he shall, upon demand, have all such finger and thumb prints, bertillon measurements, photographs, and other identification data, and all copies and duplicates thereof, returned to him, provided it is not established that he has been convicted of any felony either within or without the state within the period of ten years immediately preceding such determination. ('27, c. 224, § 7)

9950-12. Records of felonies committed to be kept by peace officers—Reports to bureau—Every peace officer shall keep or cause to be kept a permanent written record in such form as the superintendent may prescribe of all felonies reported to or discovered by him within his jurisdiction and of all warrants of arrest for felonies and search warrants issued to him in relation to the commission of felonies and shall make or cause to be made to the bureau, reports of all such crimes upon such forms as the superintendent may prescribe, including a statement of the facts and a description of the offender, so far as known, the offender's method of operation, the action taken by the officer, and such other information as the superintendent may require. ('27, c. 224, § 8)

9950-13. Information as to criminals to be furnished by bureau to peace officers, etc.—Upon receipt of information data as to any arrested person, the bureau

shall immediately ascertain whether the person arrested has a criminal record or is a fugitive from justice and shall at once inform the arresting officer of the facts ascertained. Upon application by any sheriff, chief of police, or other peace officer in the state, or by an officer of the United States or by an officer of another state, territory, or government duly authorized to receive the same and effecting reciprocal interchange of similar information with said division, it shall be the duty of the bureau to furnish all information in its possession pertaining to the identification of any person. ('27 c. 224, § 9)

9950-14. Officers of penal institutions to furnish bureau with data relating to released prisoners—It shall be the duty of the officials having charge of the penal institutions of the state or the release of prisoners therefrom to furnish to the bureau, as the superintendent may require, finger and thumb prints, Bertillon measurements, photographs, identification data, modus operandi reports, and criminal records of prisoners heretofore, now or hereafter confined in such penal institutions together with the period of their service and the time, terms and conditions of their discharge. ('27, c. 224, § 10)

9950-15. Bureau to co-operate with other criminal identification organizations—The bureau shall co-operate and exchange information with other organizations for criminal identification either within or without the state for the purpose of developing, improving, and carrying on an efficient system for the identification and apprehension of criminals. ('27, c. 224, § 11)

9950-16. Bureau to broadcast information to peace officers—The bureau shall broadcast by mail, wire and wireless to peace officers such information as to wrongdoers wanted, property stolen or recovered, and other intelligence as may help in controlling crime. ('27, c. 224, § 12)

9950-17. Police schools for training of peace officers—The superintendent may from time to time provide police schools at convenient centers in the state for training peace officers in their powers and duties and in the use of approved equipment and methods for detection, identification, and apprehension of criminals. For this purpose said superintendent may use the services of all employes of the bureau. ('27, c. 224, § 13)

9950-18. Reports to bureau by clerks of courts—The superintendent shall have power to require the clerk of court of any county to file with the department, at such time as the superintendent may designate, an annual report, upon such form as the superintendent may prescribe, furnishing such information as he may require with regard to the prosecution and disposition of criminal cases. A copy of the report shall be kept on file in the office of the clerk of court. ('27, c. 224, § 14)

9950-19. Reports by superintendent to governor—The superintendent shall submit annually to the governor a detailed report of his official actions and the work of his bureau, of information about crime and the handling of crimes and criminals by state and local officials collected by him or his bureau, and his interpretation of the information, with his comments and recommendations. In such reports he shall from time to time include his recommendations to the legislature for dealing with crime and criminals and information as to conditions and methods in other states in reference thereto. ('27, c. 224, § 15)

9950-20. Employees of bureau included in workmen's compensation laws—Every employe of the bureau except the superintendent shall be deemed an employe

of the state within the meaning of the workmen's compensation laws of this state and entitled to the benefit of all the provisions of said laws applicable to state employes. ('27, c. 224, § 16)

9950-21. Construction of law—It is hereby declared

that this act is necessary for the public safety, peace and welfare, is remedial in nature, shall be construed liberally, and that in case any part thereof shall be declared unconstitutional it shall not in any way affect any other part hereof. ('27, c. 224, § 17)

CHAPTER 94

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9951. To know ground of arrest—Every person arrested by virtue of process, or taken into custody by an officer, has a right to know from such officer the true ground of his arrest; and every such officer who shall refuse to answer relative thereto, or shall answer untruly, or neglect on request to exhibit to him, or to any person acting in his behalf, the precept by virtue of which such arrest is made, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year. (4783) [8507]

9952. Presumption of innocence—Conviction of lowest degree, when—Every defendant in a criminal action is presumed innocent until the contrary is proved, and in case of a reasonable doubt is entitled to acquittal; and when an offense has been proved against him, and there exists a reasonable doubt as to which of two or more degrees he is guilty, he shall be convicted only of the lowest. (4784) [8508]

1. Burden of proof on state—The state has the burden of proving beyond a reasonable doubt every essential element of the offence charged (10-407, 325; 22-514; 90-7, 95+578). The doubt entitling to acquittal must result from a consideration of all the evidence; each evidentiary fact need not be proved beyond a reasonable doubt (29-193, 12+524; 37-493, 35+493; 90-183, 96+330). See 121-405, 141+483.

2. Definition of reasonable doubt—It is not desirable for the court to attempt an explanation of the term "reasonable doubt" unless requested by the jury. It is impossible to make the meaning of the expression more clear by any circumlocution (14-105, 75; 38-438, 38+355). The following definition, if any, should be given: "Proof beyond a reasonable doubt is such as would impress the judgment of ordinarily prudent men with a conviction upon which they would act without hesitation in their own most important affairs and concerns of life" (56-226, 239, 55+652, 57+1065). The court is not required to explain to the jury the reason for the rule (37-493, 35+373). Instructions defining reasonable doubt considered (10-407, 325; 12-293, 191; 14-105, 75; 18-208, 191; 37-493, 35+373; 38-438, 38+355; 72-296, 75+235; 90-183, 96+330; 93-393, 101+499).

A definition of "reasonable doubt," which states it to be "a doubt for which a reasonable, sensible person could give a good reason, which reason must be based

upon the evidence or want of evidence; such doubt as a sensible person would act upon or decline to act upon in his own affairs," is held prejudicial. 210+12.

3. Doubt as to degree of crime—If the jury have a reasonable doubt whether the accused is guilty of a higher or lower degree of crime they must find him guilty of the latter (4-368, 277).

4. To what applicable—The rule requiring proof beyond a reasonable doubt is applicable to all grades of crime (10-407, 325), and to proceedings for criminal contempt (65-146, 67+796). It is not applicable to bastardy proceedings (29-357, 13+153), or to civil actions, although the issues involve a charge of crime (22-206; 29-107, 12+154; 29-357, 13+153).

5. Requests—Defendant not having asked for an instruction upon the presumption of innocence cannot now complain that none was given, (130-34, 153+271). See 123-128, 143+119; 130-84, 153+271; 130-347, 153+845, 135-479, 160+486.

9953. Conviction—When had—No person indicted for any offense shall be convicted thereof, unless by admitting the truth of the charge in his demurrer or plea, by confession in open court, or by verdict of a jury, accepted and recorded by the court. (4785) [8509]

9954. Dismissal, when—Whenever any person has been held to answer for a public offense, if an indictment is not found against him at the next term of the court to which he is held, said court shall order the prosecution to be dismissed, unless good cause to the contrary be shown. If indicted, and trial is not postponed upon his own application, unless tried at the next term of the court in which it is triable, the indictment shall be dismissed, unless good cause to the contrary be shown. (4786) [8510]

Dismissal on failure to prosecute seasonably (66-294, 69+25). Cited as to when a prosecution is pending (18-398, 359). Cited (109-437, 124+13). Cited (127-505, 150+171; 147-272, 180+99; 189+408; 191+607)

9955. Continuance—Effect—Bail—Whenever the defendant is not indicted or tried as herein provided, and good reasons therefor are shown, the court may order the action continued from term to term, and in the meantime commit the defendant, or, in case the offense is bailable, admit him to bail, on his furnishing satisfactory sureties. Whenever the action is dismissed, the defendant shall be discharged from custody, or, if admitted to bail, his bail shall be exonerated, and, if money has been deposited for bail, that shall be refunded. (4787) [8511]

Cited (109-437, 124+13). Cited (147-272, 180+99).

9956. Defendant entitled to blank subpoenas—The clerk of the court in which any indictment is to be tried shall at all times, upon application of defendant, and without charge, issue as many blank subpoenas, under the seal of the court, and subscribed by him as clerk, for witnesses in the state, as are required by such defendant. (4788) [8512]

9957. Counsel for defense; public defender in certain counties—Whenever a defendant shall be arraigned upon indictment or information for any felony or gross misdemeanor and shall request the court to