

1936 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1936)
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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9948. Convict as witness.

State v. McTague, 190M449, 252NW446; note under §9815, note 2.

Misconduct of prosecuting attorney in cross-examining defendant with respect to other charges of crime, held to require a new trial. 176M442, 223NW769.

Insinuations that defendant had been involved in like affairs before, held prejudicial notwithstanding this section. 179M436, 229NW564.

Evidence of conviction of a gross misdemeanor, such as violation of §5714, is admissible for purpose of affecting weight of testimony of witness. Brase v. W., 192M 304, 256NW176. See Dun. Dig. 10349.

CHAPTER 93A

Prevention and Control of Crime—Bureau of Criminal Apprehension

9950-6. Superintendent—Appointment, terms 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 \$5,000.00 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 co-operate with the respective sheriffs, constables, marshals, police and other peace officers of the state in the detection of crime and the apprehension of criminals throughout the state and shall have the power to conduct such investigations as the superintendent may deem necessary to secure evidence which may be essential to the apprehension and conviction of alleged violators of the criminal laws of the state. The various members of the bureau shall have and may exercise throughout the state the same powers of arrest possessed by a sheriff, but they shall not be employed to render police service in connection with strikes and other industrial disputes. ('27, c. 224, §2; Apr. 17, 1935, c. 197, §1.)

9950-7. Employees of bureau—Identification expert—Expenses of superintendent and employees—Division of criminal statistics.—The superintendent is hereby authorized to appoint, in the manner provided, and remove at his pleasure and to prescribe the duties of such skilled and unskilled employees, including an identification expert as may be necessary to carry out the work of said bureau, but not exceeding 28 in number. Any appointment of such skilled employees, including an identification expert, made subsequent to the passage of this act, shall be made from a list of applicants who have qualified for such positions by passing an examination prepared and supervised by the Board of Regents of the University of the State of Minnesota, or their agents, which list shall be certified by said Board of Regents within 30 days after the date of such examination. The superintendent and all officers and employees 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.

There is hereby established within the bureau a division of criminal statistics, and the superintendent within the limits of membership herein prescribed shall appoint a qualified statistician and one assistant to be in charge thereof. It shall be the duty of this division to collect, and preserve as a record of the bureau, information concerning the number and nature of offenses known to have been committed in the state of the legal steps taken in connection therewith from the inception of the complaint to the final

discharge of the defendant and such other information as may be useful in the study of crime and the administration of justice. The information so collected and preserved shall include such data as may be requested by the United States Department of Justice at Washington under its national system of crime reporting.

It shall be the duty of all sheriffs, chiefs of police, city marshals, constables, prison wardens, superintendents of insane hospitals, reformatories and correctional schools, probation and parole officers, school attendance officers, coroners, county attorneys, court clerks, the liquor control commissioner, the commissioner of highways, the state fire marshal to furnish to said division, statistics and information regarding the number of crimes reported and discovered, arrests made, complaints, informations and indictments, filed and the disposition made of same, pleas, convictions, acquittals, probations granted or denied, receipts, transfers and discharges to and from prisons, reformatories, correctional schools and other institutions, paroles granted and revoked, commutation of sentences and pardons granted and rescinded and all other data useful in determining the cause and amount of crime in this state and to form a basis for the study of crime, police methods, court procedure and penal problems. Such statistics and information shall be furnished upon the request of the division and upon such forms as may be prescribed and furnished by it. The division shall have the power, to inspect and prescribe the form and substance of the records kept by those officials from which the information is so furnished. ('27, c. 224, §3; Apr. 17, 1935, c. 197, §2.)

The 28 employees authorized by §9950-7 includes those necessary to operate the radio broadcasting station under Laws 1935, c. 195, §1. Op. Atty. Gen. (985h), June 7, 1935.

Board of regents may not fix age or educational requirements of applicant desiring to take examination. Op. Atty. Gen. (618a-2), July 27, 1935.

Veteran's preference law applies to employees under this act. Id.

9950-8. Bonds of superintendent and employees.—The superintendent and each employee in the bureau whom he shall designate, before entering upon the performance of his duties under this act, shall take the usual oath and 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 employees 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; Apr. 17, 1935, c. 197, §3.)

9950-10. Taking of finger prints, Bertillon measurements, photographs, etc.—Powers of sheriffs and police officers.—It is hereby made the duty of the sheriffs of the respective counties and of the police officers in cities of the first, second and third classes under the direction of the chief of police in such cities, to take or cause to be taken immediately finger and thumb prints, photographs and such other identi-

fication data as may be requested or required by the superintendent of the bureau: (a) of all persons arrested for felony, (b) of all persons reasonably 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 reasonably believed by the arresting officer to be intended for such purposes and within 24 hours thereafter to forward such finger print records and other identification data on such forms and in such manner as may be prescribed by the superintendent to the bureau of criminal apprehension. ('27, c. 224, §6; Feb. 28, 1929, c. 46, §1; Apr. 17, 1935, c. 197, §4.)

Villages and cities of the fourth class may authorize their officers to take finger prints, photographs and other identification data and send them to the bureau of apprehension or the national bureau in Washington, though this act does not require it. Op. Atty. Gen. (985d), July 23, 1935.

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, second and third classes shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs and other identification data as may be requested or required by the superintendent of the bureau, 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, 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; Feb. 28, 1929, c. 46, §2; Apr. 17, 1935, c. 197, §5.)

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 a 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; Apr. 17, 1935, c. 197, §6.)

9950-19. Reports by superintendent to governor and legislators.—The superintendent shall submit annually to the governor a detailed report of the operations of the bureau, of information about crime and the handling of crimes and criminals by state and local officials collected by the bureau, and his interpretations 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 and shall furnish a copy of such report to each member of the legislature. ('27, c. 224, §15; Apr. 17, 1935, c. 197, §7.)

9950-22. Bureau to notify state of refusal to comply with requirements.—If any public official charged with the duty of furnishing to the bureau fingerprint records, reports or other information required by this act shall neglect or refuse to comply with such requirement, the bureau in writing shall notify the state, county or city officer charged with the issuance of a warrant for the payment of the salary of such official. Upon the receipt of such notice, such state, county or city official shall withhold the issuance of a warrant for the payment of the salary or other compensation accruing to such officer for the period of thirty days thereafter until notified by the bureau that such sus-

pension has been released by the performance of the required duty. (Act Apr. 17, 1935, c. 197, §8.)

9950-22a. Physicians, etc., to report injuries.—Every physician, every surgeon, every person authorized to engage in the practice of healing, every superintendent or manager of a hospital, every nurse and every pharmacist whether such physicians, surgeons, persons engaged in the practice of healing, superintendent or manager of any hospital, nurse and pharmacist be licensed or not, shall immediately report to the proper police authorities as herein defined all bullet wounds, gun-shot wounds, powder burns, or any other injury arising from, or caused by the discharge of any gun, pistol or any other firearm, which wound he is called upon to treat, dress or bandage. (Act Apr. 13, 1935, c. 165, §1.)

9950-23. Methods of reporting.—The report required by the preceding section shall be made forthwith by telephone or in person, and shall be promptly supplemented by letter, enclosed in a securely sealed, postpaid envelope, addressed to the sheriff of the county in which such wound is examined, dressed or otherwise treated; except that if the place in which such patient is treated for such injury or his wound dressed or bandaged be in a city of the first, second or third class, such report shall be made and transmitted as herein provided to the chief of police of such city instead of the sheriff. The office of any such sheriff and of any such chief of police shall keep such report as a confidential communication and shall not disclose the name of the person making the same, and the party making such report shall not by reason thereof be subpoenaed, examined, or forced to testify in court as a consequence of having made such a report. (Act Apr. 13, 1935, c. 165, §2.)

9950-24. Application of act.—The requirements of this act shall not apply to a nurse employed in a hospital nor to a nurse regularly employed by a physician, surgeon or other person practicing healing where the employer has made a proper report in compliance herewith. (Act Apr. 13, 1935, c. 165, §3.)

9950-25. Violation a gross misdemeanor.—Any person who violates any provision of this act is guilty of a gross misdemeanor. (Act Apr. 13, 1935, c. 165, §4.)

BROADCASTING STATIONS

9950-41. Radio stations may be installed.—The commission of administration and finance is hereby authorized to purchase, secure the necessary air privilege, lease or otherwise acquire, and install one or more radio broadcasting stations to be used for police purposes only, under the direction of the bureau of criminal apprehension. (Act Apr. 17, 1935, c. 195, §1.)

The 28 employees authorized by §9950-7 includes those necessary to operate the radio broadcasting station under Laws 1935, c. 195, §1. Op. Atty. Gen. (985h), June 7, 1935.

9950-42. Bureau to maintain station.—The bureau is hereby charged with the maintenance, operation and conduct of all radio broadcasting stations established under the provisions of this act. (Act Apr. 17, 1935, c. 195, §2.)

9950-43. Police cars to have radios.—When the broadcasting station or stations authorized by this act have been established and are ready for operation, the bureau shall notify immediately the board of county commissioners in each county of the state that such radio service has been established; and forthwith the board shall provide for the purchase and installation in the office of the sheriff and at such other places within each county as it may direct, and in at least one motor vehicle used by the sheriff in the conduct of his office, a locked-in radio receiving set of the character prescribed by the bureau for use in connection with the broadcasting station or stations so established. (Act Apr. 17, 1935, c. 195, §3; Jan. 27, 1936, Ex. Ses., c. 104, §1.)

9950-44. Receiving stations in cities and villages.—The council of each city in the state shall, and the council of each village in the state may, purchase, install and maintain in such place as said council may determine at least one such locked-in radio receiving set as may be prescribed by the bureau for use in law enforcement and police work in such city or village in connection with the broadcasting system thereby established. (Act Apr. 17, 1935, c. 195, §4; Jan. 27, 1936, Ex. Ses., c. 104, §2.)

9950-45. Commission to supply broadcasting sets.—The commission shall purchase and supply the bureau of criminal apprehension with such locked-in radio receiving sets as are deemed necessary by the superintendent. (Act Apr. 17, 1935, c. 195, §5; Jan. 27, 1936, Ex. Ses., c. 104, §3.)

9950-46. Bureau to broadcast criminal information.—It shall be the duty of the bureau to broadcast all police dispatches and reports submitted which in the opinion of the superintendent shall have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime and the maintenance of peace and order throughout the state. Every sheriff, peace officer or other person employing a radio receiving set under the provisions of this act shall make report to the bureau at such times and containing such information as the superintendent shall direct. (Act Apr. 17, 1935, c. 195, §6.)

9950-47. Telephone and telegraph companies to give priority to messages.—Every telegraph and telephone company operating in the state shall give

priority to all messages or calls directed to the broadcasting station or stations established under this act. (Act Apr. 17, 1935, c. 195, §7.)

9950-48. Permission for short wave sets must be secured.—No person other than peace officers within the state and the members of the state highway patrol shall equip any motor vehicle with a short wave length radio receiving set or use the same in such motor vehicle without first obtaining permission to do so from the superintendent of the bureau upon such form of application as he may prescribe. (Act Apr. 17, 1935, c. 195, §8.)

9950-49. Appropriation.—There is hereby appropriated out of any money in the treasury not otherwise appropriated \$25,000.00 for the fiscal year ending July 1, 1936, and \$12,500.00 for the fiscal year ending July 1, 1937, or so much thereof as may be necessary to carry out the provisions of this act. (Act Apr. 17, 1935, c. 195, §9.)

9950-50 Violations—Penalties.—Any telegraph or telephone operator who shall fail to give priority to police messages or calls as provided herein; any person who installs or uses a short wave length radio receiving set in any motor vehicle contrary to the provisions of this act; and any person who wilfully makes any false, misleading or unfounded report to any broadcasting station established hereunder for the purpose of interfering with the operation thereof or with the intention of misleading any officer of this state shall be guilty of a misdemeanor. (Act Apr. 17, 1935, c. 195, §10.)

CHAPTER 94

Rights of Accused

9951. To know grounds of arrest.

Constable arresting person without warrant must take him before a magistrate without delay. Op. Atty. Gen., Feb. 28, 1933.

General rules stated for arrests with and without warrants and force that may be used, together with rights as to breaking into buildings to make arrests. Op. Atty. Gen., Mar. 19, 1934.

Insanity as defense—tests for determining criminal responsibility. 17MinnLawRev630.

9953. Conviction—When had.

A "confession in open court" is a formal admission that the specific crime or one included within the in-

dictment was committed. State v. C., 182M48, 233NW590. See Dun. Dig. 2462.

9954. Dismissal, when.

"Good cause" means a substantial reason, one that affords a legal excuse. 173M153, 216NW787.

Defendant's silence, in the face of numerous continuances and long delay, waives right to a speedy trial. 173M153, 216NW787.

9957. Counsel for defense; public defender in certain counties.

Attorney is only entitled to compensation for days he is actually in court regardless of service out of court in preparation for trial. Op. Atty. Gen., June 14, 1933.

CHAPTER 95

Crimes Against the Sovereignty of the State

9970. Wilful neglect of official duty.

Village officers refusing to comply with section 1175 requiring publication of annual financial statement, would violate this section. Op. Atty. Gen., Sept. 30, 1931.

Mayor of Minneapolis has no power to remove civil service commissioner from office. Op. Atty. Gen., July 12, 1932.

Proper procedure with reference to improper conduct of justice of peace would be to advise with county attorney. Op. Atty. Gen., Jan. 24, 1933.

President of water, light, power and building commission, may be compelled by mandamus to sign con-

tract voted by commission. Op. Atty. Gen. (469b-6), Apr. 11, 1934.

9971. Acting in public office without having qualified.

Where a justice of the peace was elected in 1929 and due to the change in date of village elections his term expired and no successor was elected, and during such vacancy he continued to act and collect fines which he refused to turn over to the village, he might technically be prosecuted under §9971, but preferably under §10302. Op. Atty. Gen., Jan. 6, 1932.

CHAPTER 96

Crimes Against Public Justice

BRIBERY AND CORRUPTION

9982. Bribery of public officer or legislator.

This section is constitutional. 176M308, 223NW144. Variance between allegations and proof; admissibility of evidence. 180M450, 231NW225.

9983. Asking or receiving bribes.

Person convicted under §9983 in 1925 and incarcerated in the state penitentiary is not entitled to restoration of

civil rights under §9944. Op. Atty. Gen. (1841), Mar. 29, 1935.

2. Indictment.

Indictment charging that defendant did "ask, agree to receive, and receive" a bribe, was not duplicitous or repugnant, and state need not elect. 178M437, 227NW497.

Proof of acceptance of credit on price of automobile not fatal variance from allegation of acceptance of money. 178M437, 227NW497.