

CHAPTER 588

CONTEMPTS

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588.01 CONTEMPTS. Subdivision 1. **Kinds.** Contempts of court are of two kinds, direct and constructive.

Subd. 2. Direct. Direct contempts are those occurring in the immediate view and presence of the court, and arise from one or more of the following acts:

(1) Disorderly, contemptuous, or insolent behavior toward the judge while holding court, tending to interrupt the due course of a trial or other judicial proceedings;

(2) A breach of the peace, boisterous conduct, or violent disturbance, tending to interrupt the business of the court.

Subd. 3. Constructive. Constructive contempts are those not committed in the immediate presence of the court, and of which it has no personal knowledge, and may arise from any of the following acts or omissions:

(1) Misbehavior in office, or other wilful neglect or violation of duty, by an attorney, clerk, sheriff, coroner, or other person appointed or elected to perform a judicial or ministerial service;

(2) Deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding;

(3) Disobedience of any lawful judgment, order, or process of the court;

(4) Assuming to be an attorney or other officer of the court, and acting as such without authority;

(5) Rescuing any person or property in the custody of an officer by virtue of an order or process of such court;

(6) Unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is to be tried;

(7) Any other unlawful interference with the process or proceedings of a court;

(8) Disobedience of a subpoena duly served, or refusing to be sworn or to answer as a witness;

(9) When summoned as a juror in a court, neglecting to attend or serve as such, improperly conversing with a party to an action to be tried at such court or with any person relative to the merits of such action, or receiving a communication from a party or other person in reference thereto, and failing to immediately disclose the same to the court;

(10) Disobedience, by an inferior tribunal, magistrate, or officer, of the lawful judgment, order, or process of a superior court, proceeding in an action or special proceeding in any court contrary to law after the same has been removed from its jurisdiction, or disobedience of any lawful order or process of a judicial officer [R. L. ss. 4638, 4639] (9792, 9793)

588.02 POWER TO PUNISH; LIMITATION. Every court of justice and every judicial officer may punish a contempt by fine or imprisonment, or both; and in addition thereto, when the contempt involves the wilful disobedience of an order of the court requiring the payment of money for the support or maintenance of a minor child, the court may require the payment of the costs and a reasonable attorney's fee, incurred in the prosecution of such contempt, to be paid by the guilty party; but, when it is a constructive contempt, it must appear that the right, or

remedy of a party to an action or special proceeding was defeated or prejudiced thereby, before the contempt can be punished by imprisonment or by a fine exceeding \$50.

[R. L. s. 4640; 1945 c. 434 s. 1] (9794)

588.03 SUMMARY PUNISHMENT. A direct contempt may be punished summarily, for which an order shall be made reciting the facts as occurring in the immediate view and presence of the court or officer, and adjudging the person proceeded against to be guilty of a contempt, and that he be punished as therein specified.

[R. L. s. 4641] (9795)

588.04 ARREST; ORDER TO SHOW CAUSE. In cases of constructive contempt, an affidavit of the facts constituting the contempt shall be presented to the court or officer, who may either issue a warrant of arrest to bring the person charged to answer or, without a previous arrest, upon notice, or upon an order to show cause, which may be served by a sheriff or other officer in the same manner as a summons in an action, may commit him to jail, impose a fine, or both, and make such order thereupon as the case may require.

[R. L. s. 4642] (9796)

588.05 PERSONS IN CUSTODY. If the party charged is in the custody of an officer by virtue of a legal order or process, civil or criminal, except upon a sentence for felony, an order may be made for his production by the officer having him in custody, that he may answer; and he shall thereupon be produced and held until an order is made for his disposal.

[R. L. s. 4643] (9797)

588.06 ADMISSION TO BAIL. When a warrant of arrest is issued pursuant to this chapter, the court or officer shall direct whether the person charged may be admitted to bail for his appearance, or detained in custody without bail, and, if admitted to bail, the amount thereof. Such direction shall be specified in the warrant.

[R. L. s. 4644] (9798)

588.07 WARRANT, HOW EXECUTED. Upon executing the warrant of arrest, the sheriff shall keep the person in actual custody, bring him before the court or officer, and detain him until an order shall be made in the premises, unless the warrant shall contain a direction to admit him to bail, in which case he shall be discharged from the arrest, upon executing and delivering to the officer, at any time before the return day of the warrant, a recognizance, with two sufficient sureties, to the effect that he will appear on the return of the warrant and abide the order of the court or officer thereupon, or pay as may be directed the sum therein specified.

[R. L. s. 4645] (9799)

588.08 RETURN OF WARRANT; PENALTY FOR FAILURE. The officer shall return the warrant and the recognizance, if any, received from the person so arrested, by the return day specified therein. If he fails to make the return, a warrant of arrest, notailable, may be issued against him, specifying therein the cause of issuing it. The officer to whom the last-mentioned warrant is delivered shall execute it by arresting the person proceeded against, bringing him personally before the court or officer, and detaining him in custody until otherwise ordered.

[R. L. s. 4646] (9800)

588.09 HEARING. When the person arrested has been brought into court, or has appeared, the court or officer shall investigate the charge by examining him and the witnesses for and against him, for which an adjournment may be had from time to time, if necessary.

[R. L. s. 4647] (9801)

588.10 PENALTIES FOR CONTEMPT OF COURT. Upon the evidence so taken, the court or officer shall determine the guilt or innocence of the person proceeded against and, if he is adjudged guilty of the contempt charged, he shall be punished by a fine of not more than \$250, or by imprisonment in the county jail, workhouse, or work farm for not more than six months, or by both. In case of his inability to pay the fine or endure the imprisonment, he may be relieved by the court or officer in such manner and upon such terms as may be just.

[R. L. s. 4648; 1933 c. 267] (9802)

588.11 INDEMNITY TO INJURED PARTY. If any actual loss or injury to a party in an action or special proceeding, prejudicial to his right therein, is caused by such contempt, the court or officer, in addition to the fine or imprisonment imposed therefor, may order the person guilty of the contempt to pay the party aggrieved a sum of money sufficient to indemnify him and satisfy his costs and expenses, including a reasonable attorney's fee incurred in the prosecution of such contempt, which order, and the acceptance of money thereunder, shall be a bar to an action for such loss and injury.

[R. L. s. 4649; 1945 c. 484 s. 2] (9803)

588.12 IMPRISONMENT UNTIL PERFORMANCE. When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he performs it, and in such case the act shall be specified in the warrant of commitment.

[R. L. s. 4650] (9804)

588.13 MAY BE INDICTED. Persons proceeded against under this chapter are also liable to indictment for the same misconduct, if it is an indictable offense; but the court before which a conviction is had on the indictment, in passing sentence, shall take into consideration the punishment before inflicted.

[R. L. s. 4651] (9805)

588.14 SECOND WARRANT; ACTION ON RECOGNIZANCE; MEASURE OF DAMAGES. When a warrant of arrest has been returned served, if the person arrested does not appear on the return day, the court or officer may issue another warrant, or may order the recognizance prosecuted, or both. If the recognizance is prosecuted, the measure of damages shall be the amount of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the warrant was issued and the costs of the proceeding.

[R. L. s. 4652] (9806)

588.15 ILLNESS MAY EXCUSE OFFICER FROM PRODUCING PERSON. When, under this chapter, an officer is required to keep a person arrested in actual custody and to bring him before a court or officer, the inability, from illness or other cause, of the person to attend, shall be a sufficient excuse for not producing him in court.

[R. L. s. 4653] (9807)