

CHAPTER 611

RIGHTS OF ACCUSED

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NOTE: For definitions and general provisions, see Chapter 610.

611.01 GROUND OF ARREST, KNOWLEDGE. 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 \$1,000, or by imprisonment in the county jail not exceeding one year.

[R. L. s. 4783] (9951)

NOTE: See section 481.10, as to right to consult attorney.

611.02 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.

[R. L. s. 4784] (9952)

611.03 CONVICTION. 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.

[R L s 4785] (9953)

611.033 COPY OF CONFESSION OR ADMISSION. No statement, confession, or admission in writing shall be received in evidence in any criminal proceeding against any defendant unless at the time of the taking thereof such defendant shall have been furnished with a copy thereof and which statement, confession, or admission shall have endorsed thereon or attached thereto the receipt of the accused which shall state that a copy thereof has been received by him.

[1951 c 263 s 1; 1951 c 284 s 1]

611.04 DISMISSAL. When 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, the court shall order the prosecution to be dismissed, unless good cause to the contrary is 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.

[R. L. s. 4786] (9954)

611.05 CONTINUANCE; EFFECT; BAIL. When 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. When 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.

[R. L. s. 4787] (9955)

611.06 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.

[R. L. s. 4788] (9956)

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611.07 COUNSEL FOR DEFENSE. Subdivision 1. When a defendant shall be charged upon indictment or information or complaint for any felony or gross misdemeanor and shall request the magistrate to have counsel appointed to assist in his defense, and satisfied such magistrate by his own oath or other required proof that he is unable, by reason of poverty, to procure counsel, the county attorney shall immediately certify to the judge of the district court of the county wherein the preliminary examination is had that the defendant is without counsel and that he has sworn, under oath, that he is financially unable to procure counsel. The district court shall then appoint counsel, not exceeding two, for such defendant, prior to his preliminary examination by a magistrate, to be paid, upon his order, by the county in which the indictment was found, or complaint issued or information filed. If no counsel is appointed prior to the preliminary hearing the court shall appoint such counsel, not exceeding two, at any time thereafter when the defendant is without counsel and has sworn under oath that by reason of poverty he is unable to afford counsel. Compensation, not exceeding \$25 per day for each counsel for the number of days he is actually employed in the preparation of the case, and not exceeding \$50 per day for each day in court, together with all necessary and reasonable costs and expenses incurred or paid in said defense, shall be fixed by the court in each case.

Subd. 2. If counsel so appointed shall appeal or procure a writ of error, and after the hearing of the appeal or writ of error the supreme court shall determine that defendant is unable, by reason of poverty, to pay counsel, and that review was sought in good faith and upon reasonable grounds, such counsel may be paid such sum for his services and expenses therein as the supreme court shall determine, to be certified to the county treasurer by the clerk of the supreme court. In any case such compensation and expense shall be paid by the county in which the defendant was accused.

Subd. 3. When a defendant convicted of a felony or a gross misdemeanor has appealed to the supreme court or has procured a writ of error, or who has otherwise brought the validity of his conviction before the supreme court for review, applies to the district court and makes an adequate showing that because of his poverty he is unable to pay for a transcript which he reasonably needs in presenting the alleged errors raised for appellate review, the district court shall, at the expense of the county in which the defendant was convicted, order a transcript, or a part or an abridgment of the transcript, or a bill of exceptions, as the case may be and as shall be necessary for a proper presentation of defendant's cause for appellate review, unless it shall appear that his cause upon review may properly be presented on the judgment roll referred to in section 632.04, or on the synopsis of the testimony prepared pursuant to section 640.10, or on any other abridgment or report of testimony made available by law, or on any combination of such available reports or records.

[R L s 4789; 1917 c 496 s 1; 1947 c 430 s 1; 1953 c 475 s 1; 1957 c 498 s 1; 1959 c 333 s 1] (9957)

NOTE: See section 481.10, as to right to consult attorney.

611.08 DEPOSITIONS FOR ACCUSED. Upon cause shown to the court in which any criminal action is pending, a judge thereof may by order allow depositions of witnesses on behalf of the prisoner to be taken in the same manner and in like cases where they may be taken in civil actions. The depositions so taken may be used upon the trial of the defendant, in his behalf, as depositions are now allowed and used in civil actions. The expense attending the taking and return thereof shall be paid by the defendant, except when otherwise directed by the court, by order duly entered upon its minutes.

[R. L. s. 4790] (9964)

611.09 ACQUITTAL ON PART OF CHARGE. When any person indicted for felony is acquitted by verdict of part of the offense charged and convicted on the residue, such verdict may be received and recorded by the court, and thereupon he shall be adjudged guilty of the offense, if any, which appears to be substantially charged by the residue of the indictment, and sentenced accordingly.

[R. L. s. 4791] (9965)

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611.10 ACQUITTAL; WHEN A BAR. When a defendant shall be acquitted or convicted upon an indictment for a crime consisting of different degrees, he cannot thereafter be indicted or tried for the same crime in any other degree, nor for an attempt to commit the crime so charged, or any degree thereof.

[R. L. s. 4792] (9966)

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611.11 NO PRESUMPTION FROM FAILURE TO TESTIFY. The defendant in the trial of an indictment, complaint, or other criminal proceeding shall, at his own request and not otherwise, be allowed to testify; but his failure to testify shall not create any presumption against him, nor shall it be alluded to by the prosecuting attorney or by the court.

[R. L. s. 4661] (9815)

611.12 PUBLIC DEFENDER, HENNEPIN COUNTY. Subdivision 1. Appointment. In counties now or hereafter having a population of 300,000 or over the judges of the district court of such county may, by a unanimous vote, appoint an attorney at law, a member of the bar in such county, to appear for and defend all persons charged with a felony or gross misdemeanor in such county who are unable, by reason of poverty, to employ counsel.

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Subd. 2. Designation; duties. The attorney so appointed shall be known as the public defender of county. He shall appear for and defend all persons charged with any felony or gross misdemeanor when it shall appear to the court that the person accused is unable, by reason of poverty, to procure counsel.

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Subd. 3. Appear before boards of pardons and parole. When the committing judge, or the judge in charge of the criminal court, shall deem it advisable he may by order direct the public defender to appear before the board of pardons, or the board of parole, for and on behalf of any applicant for pardon or parole who was committed from such county.

Subd. 4. Compensation. The public defender shall receive such compensation for his services as the judges of the district court shall fix, such compensation to be paid by the county in the same manner and at the same time as the salaries of other county officials.

Subd. 5. Term. The term of office of the public defender shall be four years, but he may be reappointed as often as the majority of the judges of the district court shall concur in such reappointment.

Subd. 6. Assistants. The public defender shall have the power to appoint and remove his assistants, the number and compensation of whom shall be fixed by the judges of the district court, by an order filed with the county auditor. Their compensation shall be paid by the county in the same manner and at the same time as the salaries of other county officials.

Subd. 7. Appearance for criminals pleading guilty. The public defender shall also appear for and on behalf of criminals who shall have pleaded guilty on information as provided in section 628.32.

[R. L. s. 4789; 1917 c. 496 ss. 1, 2, 3, 4, 5, 6, 7] (9957, 9958, 9959, 9960, 9961, 9962, 9963)

611.13 PUBLIC DEFENDER, RAMSEY COUNTY. Subdivision 1. Appointment. In counties now or hereafter having a population of more than 240,000, and less than 500,000, the judges of the district court of such county may appoint an attorney at law, a member of the bar in such county, to appear for and defend all persons charged with a felony or gross misdemeanor in such county, who are unable, by reason of poverty, to employ counsel.

Subd. 2. Designation; duties. The attorney so appointed shall be known as the public defender. He shall appear for and defend all persons charged with a felony or gross misdemeanor when it shall appear to the court that the person accused is unable, by reason of poverty, to procure counsel.

Subd. 3. Appearance before board of pardons. When the committing judge, or the judge in charge of the criminal court, shall deem it advisable he may, by order, direct the public defender to appear before the board of pardons for and on behalf of any applicant for pardon who was committed from such county.

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Subd. 4. Compensation. The public defender shall receive such compensation for his services as the judges of the district court shall fix, in a sum not to exceed \$3,600, such compensation to be paid by the county in the same manner and at the same time as the salaries of other county officials.

Subd. 5. Term. The term of office of the public defender shall be two years.

Subd. 6. Appearance for persons pleading guilty. The public defender shall also appear for and on behalf of criminals who shall have pleaded guilty on information as provided in section 628.32.

[1925 c 29 s 1-6; 1927 c 155 s 1; 1947 c 478 s 1, 2; 1951 c 657 s 1; 1953 c 84 s 1]
(9963-1, 9963-2, 9963-3, 9963-4, 9963-5, 9963-6)