

Criminal Procedure

CHAPTER 625

PREVENTION OF CRIME

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

625.01 CONSERVATORS OF THE PEACE. The judges of the several courts of record, in vacation, within their respective districts, as well as in open court, and all justices of the peace, within their respective counties, shall have power to cause all laws made for the preservation of the public peace to be kept and, in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

[R. L. s. 5207] (10548)

625.02 COMPLAINT TO MAGISTRATE. When complaint shall be made to any such magistrate that any person has threatened to commit an offense against the person or property of another, the magistrate shall examine the complainant, and any witness who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

[R. L. s. 5208] (10549)

625.03 WARRANT SHALL ISSUE, WHEN. If, upon examination, it shall appear that there is just cause to fear that any such offense may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it is directed forthwith to apprehend the person complained of and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

[R. L. s. 5209] (10550)

625.04 EXAMINATION. The magistrate before whom any person shall be brought upon charge of having made threats, as aforesaid, shall, as soon as may be, examine the complainant and witnesses in support of the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge which are deemed pertinent, after which witnesses for the prisoner, if he has any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross-examination of the witnesses in support of the prosecution.

[R. L. s. 5210] (10551)

625.05 RECOGNIZANCE TO KEEP THE PEACE. If, upon examination, it shall appear that there is just cause to fear that any such offense shall be committed by the party complained of, he shall be required to enter into a recognizance, with sufficient sureties, in such sum as the magistrate directs, to keep the peace toward all the people of this state, and especially toward the persons requiring such security, for such term as the magistrate orders, not exceeding six months. He shall not be ordered to recognize for his appearance at the district court, unless he is charged with some offense for which he ought to be held to answer to the court. Upon complying with the order of the magistrate, the party complained of shall be discharged.

[R. L. s. 5211] (10552)

625.06 PARTY COMMITTED, WHEN. If the person so ordered to recognize refuses or neglects to comply with such order, the magistrate shall commit him

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to the county jail during the period for which he was required to give security, or until he so recognizes, stating in the warrant the cause of commitment, with the sum and time for which security was required.

[R. L. s. 5212] (10553)

625.07 DISCHARGE; COMPLAINANT LIABLE FOR COSTS, WHEN. If, upon examination, it shall not appear that there is just cause to fear that any such offense will be committed by the party complained of, he shall be forthwith discharged. If the magistrate deems the complaint malicious, or without probable cause, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.

[R. L. s. 5213] (10554)

625.08 COSTS. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions. In all cases where a person shall be required to give security to keep the peace, or for his good behavior, the magistrate may further order the costs of prosecution, or any part thereof, to be paid by such person, who shall stand committed until such costs are paid or he is otherwise legally discharged.

[R. L. s. 5214] (10555)

625.09 APPEAL. Any person aggrieved by the order of any justice of the peace requiring him to recognize as aforesaid may, on giving the security required, appeal to the district court next to be holden in the same county, or that county to which such county is attached for judicial purposes.

[R. L. s. 5215] (10556)

625.10 WITNESSES TO RECOGNIZE. The magistrate from whose order an appeal is so taken shall require such witnesses as he may think necessary to support the complaint to recognize for their appearance at the court to which appeal is made.

[R. L. s. 5216] (10557)

625.11 PROCEEDINGS ON APPEAL. The court before which such appeal is prosecuted may affirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court thinks proper, and may also make such order in relation to the costs of prosecution as it deems just and reasonable.

[R. L. s. 5217] (10558)

625.12 FAILURE TO PROSECUTE APPEAL. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

[R. L. s. 5218] (10559)

625.13 DISCHARGE ON GIVING SECURITY. Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security as was required.

[R. L. s. 5219] (10560)

625.14 RECOGNIZANCE TRANSMITTED TO DISTRICT COURT. Every recognizance taken in pursuance of section 625.13 shall be transmitted by the magistrate to the district court for the county on or before the first day of the next term, and shall be there filed and recorded by the clerk.

[R. L. s. 5220] (10561)

625.15 RECOGNIZANCE WITHOUT PROCESS, WHEN. Every person who, in the presence of any court or magistrate, shall make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, or who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, and being of good behavior for a term not exceeding six months, and, in case of a refusal, may be committed as before directed.

[R. L. s. 5221] (10562)

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625.16 CARRYING DANGEROUS WEAPONS. Whoever shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

[R. L. s. 5222] (10563)

625.17 JUDGMENT ON RECOGNIZANCE REMITTED, WHEN. When, upon an action brought on any such recognizance, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case rendered just and reasonable.

[R. L. s. 5223] (10564)

625.18 SURRENDER OF PRINCIPAL; NEW RECOGNIZANCE. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have authority and right to take and surrender his principal and, upon such surrender, shall be discharged and exempted from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance. The person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace, for the residue of the term, and thereupon shall be discharged.

[R. L. s. 5224] (10565)