

CHAPTER 617

OFFENSES RELATING TO MORALITY AND DECENCY

Sec.	RAPE; ABDUCTION; CARNAL KNOWLEDGE	Sec.	OBSCENITY
617.01	Rape; penalty	617.23	Indecent exposure; penalties
617.02	Carnal knowledge of children	617.241	Obscene materials; distribution prohibited; penalty
617.03	Physical ability of offender	617.243	Indecent literature, distribution
617.05	Abduction; evidence; penalty	617.25	Indecent articles and information
617.06	Enticement into state for prostitution; penalty	617.251	Sale of articles relating to prevention of conception or disease
617.07	Seduction under promise; evidence; bar to prosecution	617.26	Mailing and carrying obscene matter
617.08	Indecent assault	617.27	Search warrant; destruction of property
617.09	Soliciting boy under 18 to house of ill-fame	617.28	Certain medical advertisements
617.10	Admitting or cohabiting	617.29	Evidence
	SODOMY, FORNICATION		PROSTITUTION AND HOUSES OF ILL-FAME
617.14	Sodomy	617.30	Keeper of disorderly resort
617.16	Fornication	617.32	Receiving earnings of prostitute
617.17	Abducting by father to evade proceedings establishing paternity	617.325	Transporting for purposes of prostitution
	ABORTION	617.33	Houses of prostitution; nuisances; abatement
617.18	Abortion, how punished	617.34	Action to enjoin; restraining order; answer
617.19	Pregnant woman attempting abortion	617.35	Trial; limitation or dismissal
617.20	Drugs to produce miscarriage	617.36	Contempts
617.21	Evidence	617.37	Order of abatement; personal property; contempt; fees
617.22	Concealing birth; second offense	617.38	Duty of county attorney
		617.39	Intervention by owner
		617.40	Permanent injunction; penalty and lien
		617.41	Owners and agents; parties to action

RAPE; ABDUCTION; CARNAL KNOWLEDGE

617.01 RAPE; PENALTY. Rape is an act of sexual intercourse with a female not the wife of the perpetrator, committed against her will or without her consent; every person who shall perpetrate such an act of sexual intercourse with a female of ten years or upwards, not his wife:

(1) When, through idiocy, imbecility, or any unsoundness of mind, either temporary or permanent she is incapable of giving consent;

(2) When her resistance is forcibly overcome;

(3) When her resistance is prevented by fear of immediate and great bodily harm, which she has reasonable cause to believe will be inflicted upon her;

(4) When her resistance is prevented by stupor or by weakness of mind produced by an intoxicating, narcotic, or anaesthetic agent administered by or with the privity of the defendant; or

(5) When she is at the time unconscious of the nature of the act, and this is known to the defendant—

Shall be punished by imprisonment in the state prison for not less than seven, nor more than 30, years.

[R. L. s. 4926] (10124)

617.02 CARNAL KNOWLEDGE OF CHILDREN. Every person who shall carnally know and abuse any female child under the age of 18 years shall be punished as follows:

(1) When such child is under the age of ten years, by imprisonment in the state prison for life;

(2) When such child is ten, and under the age of 14, years, by imprisonment in the state prison for not less than seven, nor more than 30, years;

(3) When such child is 14, and under the age of 18, years, by imprisonment in the state prison for not more than seven years, or by imprisonment in the county jail for not more than one year.

[R. L. s. 4927; 1909 c. 92 s. 1] (10125)

617.03 PHYSICAL ABILITY OF OFFENDER. No conviction for rape shall be had against one under the age of 14 years at the time of the alleged act, unless his physical ability to accomplish penetration is proved as an independent fact, beyond a reasonable doubt. In all cases of rape any sexual penetration, however slight, is sufficient to complete the crime.

[R. L. s. 4928] (10126)

MINNESOTA STATUTES 1965

617.05 OFFENSES RELATING TO MORALITY AND DECENCY

5090

617.04 [Repealed, 1963 c 753 art 2 s 17]

617.05 M.S. 1961 [Repealed, 1965 c 53 s 2]

617.05 ABDUCTION; EVIDENCE; PENALTY. Every person who

(1) takes a female under the age of 18 years, for the purpose of prostitution or sexual intercourse;

(2) inveigles or entices an unmarried female under the age of 25 years, of previous chaste character, into a house of ill fame or assignation, or elsewhere for the purpose of prostitution or sexual intercourse;

(3) takes or detains a woman unlawfully against her will, with intent to compel her by force, menace, or duress to be defiled; or

(4) being parent, guardian, or other person having legal charge of the person of a female under the age of 18 years, consents to her taking or detention by any person for the purpose of prostitution or sexual intercourse;

is guilty of abduction and shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than \$1,000, or by both. No conviction shall be had for abduction upon the unsupported testimony of the female abducted.

[1965 c 53 s 1]

617.06 ENTICEMENT INTO STATE FOR PROSTITUTION; PENALTY. It shall be unlawful for any person to induce, entice, or procure, or attempt to induce, entice, or procure to come into this state, any female person for the purpose of prostitution or concubinage, or for any other immoral purpose, or to induce, entice, or procure any female person in this state to enter any house of ill-fame, assignation, or prostitution.

Any person who violates the provisions of this section shall, upon conviction thereof, be punished by imprisonment in the state prison for a period of not more than ten years.

[1909 c. 404 ss. 1, 2; 1911 c. 202 s. 1] (10129, 10130)

617.07 SEDUCTION UNDER PROMISE; EVIDENCE; BAR TO PROSECUTION. Every person who, under promise of marriage, shall seduce and have sexual intercourse with an unmarried female of previous chaste character, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than \$1,000, or by both. No conviction shall be had for the offense specified herein upon the unsupported testimony of the female seduced. The subsequent intermarriage of the parties, or the lapse of two years after the commission of the offense before the finding of the indictment, shall be a bar to a prosecution for a violation of this section.

[R. L. s. 4931] (10131)

617.08 INDECENT ASSAULT. Every person who shall take any indecent liberties with or on the person of any female, not a public prostitute, without her consent expressly given, and which acts do not in law amount to rape, an attempt to commit a rape, or an assault with intent to commit a rape, and every person who shall take such indecent liberties with or on the person of any female under the age of 16 years, and every person who shall take any indecent liberties with or on the person of any male under the age of 16 years, without regard to whether he or she shall consent to the same or not, or who shall persuade or induce any male or female under the age of 16 years to perform any indecent act upon his or her own body or the body of another, shall be guilty of a felony.

[R. L. s. 4932; 1927 c. 394; 1929 c. 27] (10132)

617.09 SOLICITING BOY UNDER 18 TO HOUSE OF ILL-FAME. Any person who shall solicit any boy under the age of 18 years to visit a house of ill-fame or assignation for the purpose of prostitution or sexual intercourse, or shall direct or accompany such boy to any such house of ill-fame or assignation for such purpose, or shall arrange or assist in arranging any meeting for such purpose between any boy under the age of 18 years and any female of dissolute character or any inmate of any house of ill-fame or assignation, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment for not less than six months, nor more than five years.

[1907 c. 320 s. 1] (10133)

617.10 ADMITTING OR COHABITING. Any keeper of any house of ill-fame or assignation who shall for any unlawful purpose admit to such house any boy under the age of 18 years, or any female inmate of any such house of ill-fame or assignation who shall cohabit with any boy under the age of 18 years, shall

MINNESOTA STATUTES 1965

5091

OFFENSES RELATING TO MORALITY AND DECENCY 617.22

be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment for not less than 18 months, nor more than seven years.

[1907 c. 320 s. 2] (10134)

SODOMY, FORNICATION

617.11 [Repealed, 1963 c 753 art 2 s 17]

617.12 [Repealed, 1963 c 753 art 2 s 17]

617.13 [Repealed, 1963 c 753 art 2 s 17]

617.14 **SODOMY.** A person who carnally knows in any manner any animal or bird, or carnally knows any male or female person by the anus or by or with the mouth, or voluntarily submits to such carnal knowledge; or attempts sexual intercourse with a dead body, is guilty of sodomy, and is punishable with imprisonment in the state prison for not more than 20 years, and any sexual penetration, however slight, shall be sufficient to complete the crime.

[R. L. s. 4950; 1909 c. 270 s. 1; 1921 c. 224 s. 1] (10183)

617.15 [Repealed, 1963 c 753 art 2 s 17]

617.16 **FORNICATION.** When any man and single woman have sexual intercourse with each other each is guilty of fornication and shall be punished by imprisonment in the county jail for not more than 90 days, or by a fine of not more than \$100.

[R. L. s. 4952; 1919 c. 193 s. 1] (10185)

617.17 **ABSCONDING BY FATHER TO EVADE PROCEEDINGS ESTABLISHING PATERNITY.** If issue is conceived of fornication, and within the period of gestation or within 60 days after the birth of a living child the father absconds from the state with intent to evade proceedings to establish his paternity of such child, he is guilty of a felony and shall be punished by imprisonment in the state prison for not more than two years.

[1917 c. 211 s. 1] (10185A)

ABORTION

617.18 **ABORTION, HOW PUNISHED.** Every person who, with intent thereby to produce the miscarriage of a woman, unless the same is necessary to preserve her life, or that of the child with which she is pregnant, shall

(1) prescribe, supply, or administer to a woman, whether pregnant or not, or advise or cause her to take, any medicine, drug, or substance; or

(2) use, or cause to be used, any instrument or other means—

Shall be guilty of abortion and punished by imprisonment in the state prison for not more than four years or in a county jail for not more than one year.

[R. L. s. 4942] (10175)

617.19 **PREGNANT WOMAN ATTEMPTING ABORTION.** A pregnant woman who takes any medicine, drug, or substance, or uses or submits to the use of any instrument or other means, with intent thereby to produce her own miscarriage, unless the same is necessary to preserve her life, or that of the child whereof she is pregnant, shall be punished by imprisonment in the state prison for not less than one year nor more than four years.

[R. L. s. 4943] (10176)

617.20 **DRUGS TO PRODUCE MISCARRIAGE.** Whoever shall manufacture, give, or sell an instrument, drug, or medicine, or any other substance, with intent that the same may be unlawfully used in producing the miscarriage of a woman, shall be guilty of a felony.

[R. L. s. 4944] (10177)

617.21 **EVIDENCE.** In any prosecution for abortion or attempting abortion, no person shall be excused from testifying as a witness on the ground that his testimony would tend to criminate himself.

[R. L. s. 4945] (10178)

617.22 **CONCEALING BIRTH; SECOND OFFENSE.** Every person who shall endeavor to conceal the birth of a child by any disposition of its dead body, whether the child died before or after its birth, shall be guilty of a misdemeanor; and every woman who, having been convicted of endeavoring to conceal the still-birth of any issue of her body, which if born alive would be illegitimate, or the death of such issue under the age of two years, shall, subsequent to such conviction, endeavor to conceal any such birth or death, shall be punished by imprisonment in the state prison for not more than five years.

[R. L. s. 4946; 1917 c. 231 s. 1] (10179)

OBSCENITY

617.23 INDECENT EXPOSURE; PENALTIES. Every person who shall wilfully and lewdly expose his person, or the private parts thereof, in any public place, or in any place where others are present, or shall procure another to so expose himself, and every person who shall be guilty of any open or gross lewdness or lascivious behavior, or any public indecency other than hereinbefore specified, shall be guilty of a misdemeanor, and punished by a fine of not less than \$5, or by imprisonment in a county jail for not less than ten days.

Every person committing the offense herein set forth, after having once been convicted of such an offense in this state, shall be guilty of a gross misdemeanor.

[R. L. s. 4953; 1931 c. 321] (10186)

617.24 [Repealed, 1961 c 664 s 2]

617.241 OBSCENE MATERIALS; DISTRIBUTION PROHIBITED; PENALTY. It is unlawful for any person knowingly to exhibit, sell, print, offer to sell, give away, circulate, publish, distribute, or attempt to distribute any obscene book, magazine, pamphlet, paper, writing, card, advertisement, circular, print, picture, photograph, motion picture film, play, image, instrument, statue, drawing, or other article which is obscene. "Obscene" for the purpose of this section, is defined as follows: Whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interests.

Any person violating any provision of this section shall be fined not less than \$20 nor more than \$100 for each offense.

[1961 c 664 s 1]

617.243 INDECENT LITERATURE, DISTRIBUTION. Subdivision 1. Any person, copartnership or corporation shall not, as a condition to a sale or delivery for resale of any paper, magazine, book, comic, periodical or publication, require that the purchaser or consignee receive for resale any other article, book, comic or other publication reasonably believed by the purchaser or consignee to be obscene.

Subd. 2. The violation of the provisions of subdivision 1 is a gross misdemeanor.

[1957 c 323 s 1]

617.25 INDECENT ARTICLES AND INFORMATION. Every person who shall sell, lend, or give away, or in any manner exhibit, or offer to sell, lend, or give away, or have in his possession with intent to sell, lend, give away, or advertise or offer for sale, loan, or distribution, any instrument or article, or any drug or medicine for causing unlawful abortion; or shall write or print, or cause to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or shall give oral information, stating when, where, how, or whom, or by what means such article or medicine can be obtained or who manufactures it, shall be guilty of a gross misdemeanor and punished by imprisonment in the county jail for not more than one year or by a fine of not more than \$500 or by both.

[R L s 4955; 1965 c 395 s 1] (10188)

617.251 SALE OF ARTICLES RELATING TO PREVENTION OF CONCEPTION OR DISEASE. Instruments, articles, drugs or medicines for the prevention of conception or disease may be sold, offered for sale, distributed or dispensed only by persons or organizations recognized as dealing primarily with health or welfare. Anyone convicted of violation of this section shall be guilty of a gross misdemeanor and punished by imprisonment not to exceed one year or by a fine of not more than \$500 or both.

[1965 c 395 s 2]

617.26 MAILING AND CARRYING OBSCENE MATTER. Every person who shall deposit or cause to be deposited in any post-office in the state, or place in charge of any express company or other common carrier or person for transportation, any of the articles or things specified in section 617.241 or 617.25, or any circular, book, pamphlet, advertisement or notice relating thereto, with the intent of having the same conveyed by mail, express, or in any other manner; or who shall knowingly or wilfully receive the same with intent to carry or convey it, or shall knowingly carry or convey the same by express, or in any other manner except by United States mail, shall be guilty of a misdemeanor. The provisions of this section and section 617.25 shall not be construed to apply to an article or instrument used

MINNESOTA STATUTES 1965

5093

OFFENSES RELATING TO MORALITY AND DECENCY 617.325

by physicians lawfully practicing, or by their direction or prescription, for the cure or prevention of disease.

[*R L s 4956; 1965 c 51 s 85*] (10189)

617.27 SEARCH WARRANT; DESTRUCTION OF PROPERTY. Every municipal court and justice of the peace, upon complaint under oath that any person has in his possession or under his control any of the obscene books, papers, or other matter specified in sections 617.241 to 617.26, shall issue a warrant directed to the sheriff or any constable of the county, therein directing him to search for, seize, and take possession of such obscene matter; and, upon conviction of the person in whose possession the same shall be found, shall cause such matter to be destroyed, and the fact to be entered upon the records of the court.

[*R L s 4957; 1965 c 51 s 86*] (10190)

617.28 CERTAIN MEDICAL ADVERTISEMENTS. Subdivision 1. **Placing advertisement; penalty.** Any person who shall advertise, in his own name or in the name of another person, firm or pretended firm, association, corporation or pretended corporation, in any newspaper, pamphlet, circular, or other written or printed paper, or the owner, publisher, or manager of any newspaper or periodical who shall permit to be inserted or published in any newspaper or periodical owned or controlled by him, the treatment or curing of venereal diseases, the restoration of "lost manhood" or "lost vitality," or shall advertise in any manner that he is a specialist in diseases of the sexual organs, or diseases caused by sexual weakness, self-abuse, or excessive sexual indulgence, or in any disease of like causes, or who shall advertise in any manner any medicine, drug compound, appliance or any means whatever whereby it is claimed that sexual diseases of men and women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment in the county jail for not more than six months.

Subd. 2. **Publication; penalty.** Any person publishing, distributing, or causing to be distributed or circulated, any of the advertising matter hereinabove prohibited, shall be guilty of a misdemeanor and punished as prescribed in subdivision 1.

[*1909 c. 162 ss. 1, 2*] (10191, 10192)

617.29 EVIDENCE. The production of any advertisement or advertising matter published or distributed contrary to the provisions of sections 617.28 and 617.29 shall be of itself prima facie evidence of the guilt of the person advertising to cure any such disease hereinabove mentioned, or of the publishers who publish any matter such as is herein prohibited.

[*1909 c. 162 s. 3*] (10193)

PROSTITUTION, HOUSES OF ILL-FAME

617.30 KEEPER OF DISORDERLY RESORT. Subdivision 1. Every person who shall keep a house of ill-fame or assignation, or a house, tent, vehicle, resort, or place of any description for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene, or indecent purpose, shall be guilty of a felony.

Subd. 2. Every person who shall keep a disorderly house, or any place of public resort by which the peace, comfort, or decency of a neighborhood is habitually disturbed, or who, as agent or owner, lets a building or any portion thereof, knowing that it is intended to be used for any purpose specified in this section, or who permits a building or any portion thereof to be used for any of the aforesaid purposes, shall be guilty of a gross misdemeanor.

[*R. L. s. 4958*] (10194)

617.31 [Repealed, 1963 c 753 art 2 s 17]

617.32 RECEIVING EARNINGS OF PROSTITUTE. Subdivision 1. **Prohibited.** It shall be unlawful for any person to knowingly accept or receive, in whole or in part, his or her support or maintenance from the proceeds or earnings of any woman engaged in prostitution.

Subd. 2. **Penalty.** Any person who violates the provisions of this section shall be guilty of a felony; and upon conviction thereof shall be punished by imprisonment in the state prison for not less than one year nor more than three years.

[*1909 c 475 s 1, 2*] (10197, 10198)

617.325 TRANSPORTING FOR PURPOSES OF PROSTITUTION. Subdivision 1. **Transportation prohibited.** It shall be unlawful to direct, take, or transport, or to offer or agree to take or transport any person to any place, structure, building, or

conveyance, or to any other person, with knowledge that the purpose of such directing, taking, or transporting is prostitution, for hire.

Subd. 2. **Division of illegal earnings prohibited.** It shall be unlawful for any woman engaged in prostitution to pay, offer to pay, or turn over any of the proceeds or earnings from such prostitution to any person, for his or her support or maintenance, in whole or in part.

Subd. 3. **Testimony not privileged.** No person shall be excused or privileged from testifying fully under oath in any prosecution brought under the provisions of this section, but no testimony so given by any person shall be used against him or her in any criminal action to which he or she is a party, except a prosecution for perjury committed in giving such testimony.

Subd. 4. **Reputation admissible in evidence.** At the trial of any person charged with violating any of the provisions of this section the reputation of any place, structure, building, or conveyance shall be admissible in evidence in support of the charge.

Subd. 5. **Penalty.** Any person who violates the provisions of subdivision 1 shall be guilty of a felony; and upon conviction thereof shall be punished by imprisonment for not more than five years or by a fine of not more than \$1,000 or by both. Any person who violates the provisions of subdivision 2 shall be guilty of a gross misdemeanor; and upon conviction thereof shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than \$1,000 or by both.

[1945 c. 578]

617.33 HOUSES OF PROSTITUTION; NUISANCES; ABATEMENT. Whoever shall erect, establish, continue, maintain, use, own, or lease any building, erection, or place used for the purpose of lewdness, assignation, or prostitution is guilty of a nuisance, and the building, erection, or place, or the ground itself, in or upon which such lewdness, assignation, or prostitution is conducted, permitted, or carried on, continued or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such public nuisance, are also declared a nuisance and shall be enjoined and abated as hereinafter provided.

[1913 c. 562 s. 1] (10199)

617.34 ACTION TO ENJOIN; RESTRAINING ORDER; ANSWER. When a nuisance is kept, maintained, or exists, as defined in sections 617.33 to 617.41, the county attorney or any citizen of the county may maintain an action in equity in the name of the state of Minnesota, upon the relation of such county attorney or citizen, to perpetually enjoin such nuisance, the person or persons conducting or maintaining the same from further conducting or maintaining the same, and the owner or agent of the building or ground upon which the nuisance exists, from further permitting such building or ground, or both, to be so used. The defendants shall be served therein as in other actions, and in such action the court, or judge in vacation, shall, upon the presentation of a verified complaint therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction without bond, if the existence of such nuisance shall be made to appear to the satisfaction of the court or judge by evidence in the form of affidavits, depositions, oral testimony, or otherwise as the complainant may elect, unless the court or judge, by previous order, shall have directed the form and manner in which such evidence shall be presented, in which case it shall be so presented. Where a temporary injunction is prayed for, the court, on the application of plaintiff, may issue an ex parte restraining order, restraining the defendants and all other persons from removing or in any manner interfering with the furniture, fixtures, musical instruments, and movable property used in conducting the alleged nuisance, until the decision of the court or judge granting or refusing such temporary injunction, and until the further order of the court thereon. The restraining order may be served by handing to and leaving a copy of the order with any person in charge of the property or residing in the premises or apartment wherein the same is situated, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such premises or apartment where such nuisance is alleged to be maintained, or by both such delivery and posting. The officer serving such restraining order shall forthwith make a return into court and inventory of the personal property situated in and used in conducting or maintaining such nuisance. Any violation of such restraining order shall be a contempt of court, and where such order is so posted mutilation or removal thereof, while the same remains in force, shall be a contempt

MINNESOTA STATUTES 1965

5095

OFFENSES RELATING TO MORALITY AND DECENCY 617.37

of court; provided, such posted order contains thereon or therein a notice to that effect. Three days' notice, in writing, shall be given the defendants of the hearing of the application for temporary injunction and, if then continued at the instance of defendant, the temporary writ as prayed shall be granted as a matter of course. Each defendant so notified shall serve upon the complainant or his attorney a verified answer on or before the date fixed in the notice for the hearing, and such answer shall be filed with the clerk of the district court of the county wherein the cause is triable, but the court may allow additional time for so answering, providing such extension of time shall not prevent the issuing of the temporary writ as prayed for. The allegations of the answer shall be deemed to be traversed without further pleading. When an injunction has been granted, it shall be binding on the defendants throughout the judicial district in which it was issued, and any violation of the provisions of the injunction herein provided shall be a contempt, as hereinafter provided.

[1913 c. 562 s. 2] (10200)

617.35 TRIAL; LIMITATION OR DISMISSAL. The action when brought shall be noticed for and triable at the first term of the court the same as other actions triable in the district court of such county, and in such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of the nuisance shall be prima facie evidence of such nuisance and of knowledge thereof and of acquiescence and participation therein on the part of the owners, lessors, lessees, users, and all those in possession of or having charge of, as agent or otherwise, or having any interest in any form of property used in conducting or maintaining the nuisance. If the complaint is filed by a citizen, it shall not be dismissed except upon a sworn statement made by the complainant and his attorney, setting forth the reasons why the action should be dismissed, and the dismissal approved by the county attorney, in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, he may direct the county attorney to prosecute the action to judgment at the expense of the county, and, if the action is continued more than one term of court, any citizen of the county or the county attorney may be substituted for the complaining party and prosecute the action to judgment. If the action is brought by a citizen and the court finds there was no reasonable grounds or cause for the action, the cost may be taxed to such citizen.

[1913 c. 562 s. 3] (10201)

617.36 CONTEMPT'S. In case of the violation of any injunction granted under the provisions of sections 617.33 to 617.41, or of a restraining order or the commission of any contempt of court in proceedings under those sections, the court or, in vacation, a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court a complaint under oath, setting out and alleging facts constituting such violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of those sections shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for not less than three nor more than six months or by both fine and imprisonment.

[1913 c. 562 s. 4] (10202)

617.37 ORDER OF ABATEMENT; PERSONAL PROPERTY; CONTEMPT; FEES. If the existence of the nuisance be admitted or established in an action, as provided in sections 617.33 to 617.41, or in a criminal proceeding in the district court, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, or movable property used in conducting the nuisance, and shall direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution, and shall direct the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released. Owners of unsold personal property so seized must appear and claim the same within ten days after such order of abatement is made, and prove innocence, to the satisfaction of the court, of any knowledge of the use thereof, and that with reasonable care and diligence they could not have known thereof. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the place. If such

innocence be so established, such unsold personal property shall be delivered to the owner, otherwise it shall be sold as hereinbefore provided. If any person shall break and enter or use a building, erection, or place so directed to be closed, he shall be punished as for contempt, as provided in section 617.36. For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises and keeping them closed, a reasonable sum shall be allowed by the court.

[1913 c. 562 s. 5] (10203)

617.38 DUTY OF COUNTY ATTORNEY. In case the existence of such nuisance is established in a criminal proceeding in a court not having equitable jurisdiction, it shall be the duty of the county attorney to proceed promptly, under sections 617.33 to 617.41, to enforce the provisions and penalties thereof, and the finding of the defendant guilty in such criminal proceeding, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the nuisance. All moneys collected under those sections shall be paid to the county treasurer. The proceeds of the sale of the personal property, as provided in section 617.37, shall be applied in payment of the costs of the action and abatement or so much of such proceeds as may be necessary, except as hereinafter provided.

[1913 c. 562 s. 6] (10204)

617.39 INTERVENTION BY OWNER. If the owner of the premises in which the nuisance has been maintained appears and pays all costs of the proceeding, and files a bond with sureties to be approved by the court in the full value of the property, to be ascertained by the court or, in vacation, by the judge thereof, conditioned that he will immediately abate the nuisance and prevent the same from being established or kept therein within a period of one year thereafter, the court or, in vacation, the judge, if satisfied of his good faith, may order the premises closed or sought to be closed under the order of abatement, to be delivered to the owner, and the order of abatement canceled so far as the same may relate to the real property. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty, or liability to which it may be subject by law.

[1913 c. 562 s. 7] (10205)

617.40 PERMANENT INJUNCTION; PENALTY AND LIEN. When a permanent injunction issues against any person for maintaining a nuisance as herein defined, or against any owner or agent of the building kept or used for the purpose prohibited by sections 617.33 to 617.41, there shall be imposed upon the building and the ground upon which the same is located and against the person or persons maintaining the nuisance, and the owner or agent of the premises, a penalty of \$300. The imposing of the penalty shall be made by the court as a part of the proceeding, and the clerk of the court shall make and certify a return of the imposition of the penalty forthwith to the county auditor, who shall enter the same as a tax upon the property and against the persons upon which or whom the lien was imposed as and when other taxes are entered, and the same shall be and remain a lien on the land upon which lien was imposed until fully paid; provided, that any such lien imposed while the tax books are in the hands of the auditor shall be immediately entered therein. The payment of such penalty shall not relieve the persons or property from any other penalties provided by law. The provisions of the law relating to the collection of taxes in this state, the delinquency thereof and sale of property for taxes shall govern in the collection of the penalty herein prescribed in so far as the same are applicable, and the penalty collected shall be applied in payment of any deficiency in the costs of the action and abatement on behalf of the state to the extent of such deficiency after the application thereto of the proceeds of the sale of personal property, as hereinbefore provided, and the remainder of the penalty, together with the unexpended portion of the proceeds of the sale of personal property, shall be distributed in the same manner as fines collected for the keeping of houses of ill-fame, excepting that ten per cent of the amount of the whole penalty collected and of the whole proceeds of the sale of the personal property, as provided in those sections, shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment.

[1913 c. 562 s. 8] (10206)

MINNESOTA STATUTES 1965

5097

OFFENSES RELATING TO MORALITY AND DECENCY 617.41

617.41 OWNERS AND AGENTS; PARTIES TO ACTION. When such nuisance has been found to exist under any proceeding in the district court, or as provided in sections 617.33 to 617.40, and the owner or agent of such building or ground whereon the same has been found to exist was not a party to such proceeding, nor appeared therein, the penalty of \$300 shall be imposed against the persons served or appearing and against the property, as set forth in those sections. Before the penalty shall be enforced against the property, the owner or agent thereof shall have appeared therein or shall be served with summons therein, and the provisions of sections 543.11 and 543.12 shall apply to service in proceedings under sections 617.33 to 617.40. The person in whose name the real estate affected by the action stands on the books of the county auditor for purposes of taxation shall be presumed to be the owner thereof and, in case of unknown persons having or claiming any ownership, right, title, or interest in property affected by the action, such may be made parties to the action by designating them in the summons and complaint as "all other persons unknown claiming any ownership, right, title or interest in the property affected by the action" and service thereon may be had by publishing such summons in the manner prescribed in section 543.11. Any person having or claiming such ownership, right, title or interest, and any owner or agent in behalf of himself and such owner may make, serve, and file his answer therein within 20 days after such service and have trial of his rights in the premises by the court; and, if the cause has already proceeded to trial or to findings and judgment, the court shall by order fix the time and place of such further trial and shall modify, add to, or confirm such findings and judgment as the case may require. Other parties to the action shall not be affected thereby.

[1913 c. 562 s. 9] (10207)

- 617.42 [Renumbered 624.42]
- 617.43 [Renumbered 624.43]
- 617.44 [Renumbered 624.44]
- 617.45 [Renumbered 624.45]
- 617.46 [Renumbered 624.46]
- 617.47 [Renumbered 624.47]
- 617.48 [Renumbered 624.48]
- 617.49 [Renumbered 624.49]
- 617.50 [Renumbered 624.50]
- 617.51 [Renumbered 624.51]
- 617.52 [Renumbered 624.52]
- 617.53 [Renumbered 624.53]
- 617.54 [Renumbered 624.54]
- 617.55 [Repealed, 1963 c 753 art 2 s 17]
- 617.56 [Repealed, 1963 c 753 art 2 s 17]
- 617.57 [Repealed, 1963 c 753 art 2 s 17]
- 617.58 [Repealed, 1963 c 753 art 2 s 17]
- 617.59 [Repealed, 1963 c 753 art 2 s 17]
- 617.60 [Repealed, 1963 c 753 art 2 s 17]
- 617.61 [Repealed, 1963 c 753 art 2 s 17]
- 617.62 [Repealed, 1963 c 753 art 2 s 17]
- 617.63 [Repealed, 1963 c 753 art 2 s 17]
- 617.64 [Repealed, 1963 c 753 art 2 s 17]
- 617.65 [Repealed, 1963 c 753 art 2 s 17]
- 617.66 [Repealed, 1963 c 753 art 2 s 17]
- 617.67 [Repealed, 1963 c 753 art 2 s 17]
- 617.68 [Repealed, 1963 c 753 art 2 s 17]
- 617.69 [Renumbered 624.701]
- 617.70 [Renumbered 624.702]
- 617.71 [Renumbered 624.703]
- 617.715 [Renumbered 126.19]
- 617.72 [Repealed, 1963 c 753 art 2 s 17]
- 617.73 [Repealed, 1963 c 753 art 2 s 17]
- 617.74 [Repealed, 1963 c 753 art 2 s 17]
- 617.75 [Repealed, 1963 c 753 art 2 s 17]