

CHAPTER 587

WRITS OF PROHIBITION

Sec.
 587.01 Writs; issuance and contents
 587.02 Service and return of writ
 587.03 Adoption by party of return

Sec.
 587.04 Return not adopted
 587.05 Judgment; writ of consultation abolished

587.01 WRITS; ISSUANCE AND CONTENTS. Writs of prohibition shall be issued only by the supreme court, and shall be applied for upon affidavit, by motion to the court, or to a judge thereof in vacation. If the cause shown appears to the court or judge to be sufficient, a writ shall be issued, commanding the court and party or officer to whom it is directed to refrain from any further proceeding in the action or matter specified until the next term of the supreme court, or its further order therein, and to show cause at the next term thereof, or on some designated day in the same term, if issued in term time, why they should not be absolutely restrained from any further proceedings therein.

[*R. L. s. 4568*] (9734)

NOTE: See Rules of Civil Appellate Procedure, Rule 120.

587.02 SERVICE AND RETURN OF WRIT. Such writ shall be served upon the court and party or officer to whom it is directed in the same manner as a writ of mandamus; and a return to such writ shall be made by such court or officer, the making of which may be enforced by attachment.

[*R. L. s. 4569*] (9735)

NOTE: See Rules of Civil Appellate Procedure, Rule 120.

587.03 ADOPTION BY PARTY OF RETURN. If the party to whom such writ is directed, by an instrument in writing signed by him and attached to such return, shall adopt the same, and rely upon the matters therein contained as sufficient cause why such court should not be restrained as demanded in the writ, such party shall thereafter be deemed the defendant in the proceeding, and the person prosecuting such writ may take issue or demur to the matters so relied upon by such defendant.

[*R. L. s. 4570*] (9736)

NOTE: See Rules of Civil Appellate Procedure, Rule 120.

587.04 RETURN NOT ADOPTED. If the party to whom the writ is directed shall not adopt such return, the party prosecuting the writ shall bring on the argument of such return as upon an order to show cause; and he may, by his own affidavit and other proofs, controvert the matters set forth in such return.

[*R. L. s. 4571*] (9737)

NOTE: See Rules of Civil Appellate Procedure, Rule 120.

587.05 JUDGMENT; WRIT OF CONSULTATION ABOLISHED. If, upon final hearing, an order is made in favor of the relator, it shall award a writ of prohibition absolute, and it may also direct that all or any of the proceedings theretofore taken in the matter as to which such writ issues be annulled. The writ of consultation is hereby abolished, and the final order, if it be against the relator, shall authorize further proceedings as if the first or alternative writ had not issued. The court may make and enforce such order concerning costs and disbursements, and the amount thereof, as justice shall require.

[*R. L. s. 4572*] (9738)

NOTE: See Rules of Civil Appellate Procedure, Rule 120.