

CHAPTER 631

TRIAL, JUDGMENT, SENTENCE

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631.01 [Repealed, 1979 c 233 s 42]

631.015 [Repealed, 1979 c 233 s 42]

631.02 CONTINUANCE; DEFENDANT COMMITTED, WHEN.

When an indictment shall be called for trial, or at any time previous thereto, upon sufficient cause shown by either party, the court may direct the trial to be postponed to another day in the same term, or to another term, and all affidavits read upon the application shall be filed with the clerk at the same time. When a defendant who has given bail shall appear for trial, the court may, in its discretion, at any time after such appearance, order him committed to the custody of the proper officer of the county, to abide the judgment or further order of the court.

History: *RL s 5359 (10706)*

631.03 [Repealed, 1979 c 233 s 42]

631.04 EXCLUDING MINORS; DUTY OF OFFICER; PENALTY.

No person under the age of 17 years, not a party to, witness in, or directly interested in a criminal prosecution or trial being heard before any district, municipal, police, or justice court, shall attend or be present at such trial; and every police officer, constable, sheriff, or other officer in charge of any such court and attending upon the trial of any such criminal case in any such court, shall exclude from the room in which such trial is being had every such minor, except when he is permitted to attend by order of the court before which the trial shall be had; and every police officer, constable, sheriff, or deputy sheriff who shall knowingly neglect or refuse to carry out the provisions of this section shall be guilty of a misdemeanor and punished by a fine of not less than \$10 nor more than \$25.

History: *RL s 5361 (10708)*

631.05 JUROR MAY TESTIFY, WHEN; VIEW.

If a juror has any personal knowledge respecting a fact in controversy in a cause, he shall declare it in open court during the trial; if, during the retirement of a jury, a juror shall declare a fact, which could be evidence in the cause, as

of his own knowledge, the jury shall return into court; and in either of these cases the juror making the statement shall be sworn as a witness and examined in the presence of the parties. The court may order a view by any jury impaneled to try a criminal case in accordance with Rule 26.03, Subdivision 10, of the rules of criminal procedure.

History: *RL s 5362; 1979 c 233 s 41 (10709)*

631.06 QUESTIONS OF LAW AND FACT, HOW DECIDED.

On the trial of an indictment for any offense, questions of law shall be decided by the court, except in cases of criminal defamation, saving the right of the defendant to except, and questions of fact by the jury; and, although the jury may find a general verdict which shall include questions of law as well as of fact, it shall receive as law what shall be laid down by the court as such.

History: *RL s 5363; 1971 c 25 s 99 (10710)*

631.07 ORDER OF ARGUMENT.

When the evidence shall be concluded upon the trial of any indictment, unless the cause shall be submitted on either or both sides without argument, the plaintiff shall commence and the defendant conclude the argument to the jury.

History: *RL s 5364 (10711)*

631.08 [Repealed, 1979 c 233 s 42]

631.09 JURY; HOW AND WHERE KEPT WHILE DELIBERATING; SEPARATE ACCOMMODATIONS FOR WOMEN JURORS.

After hearing the charge the jury may either decide in court, or retire for deliberation, if it shall not agree without retiring, one or more officers shall be sworn to take charge of it, and it shall be kept together in some private and convenient place, without food or drink except water, unless otherwise ordered by the court, and no person shall be permitted to speak to or communicate with it or any one of its number unless by order of court, nor listen to the deliberations; and it shall be returned into court when agreed, or when so ordered by the court. In case of mixed juries counties shall provide adequate, separate quarters for women jurors with proper accommodations and, in the event the county shall so fail to provide such proper accommodations, the court shall order such women jurors kept in a suitable hotel for the night.

This section shall apply only in cases where the jury has failed to agree.

History: *RL s 5366; 1927 c 210 s 1,2 (10713, 10713-1)*

631.10 [Repealed, 1979 c 233 s 42]

631.11 [Repealed, 1979 c 233 s 42]

631.12 DISCHARGE OF JURY WITHOUT VERDICT.

If, after the retirement of the jury, one of the jurors shall become so sick as to prevent the continuance of his duty, or if the jury shall be unable to agree upon a verdict, or any other accident or cause shall occur to prevent the jury being kept together for deliberation, it may be discharged by the court.

History: *RL s 5369 (10716)*

631.13 SECOND TRIAL.

In all cases where a jury shall be discharged or prevented from giving a verdict by reason of accident, disagreement, or other cause, except when the defendant shall be discharged from the indictment during the progress of the

trial, or after the cause shall be submitted to it, the cause may be again tried at the same or another term.

History: *RL s 5370 (10717)*

631.14 VERDICT FOR LESSER OFFENSE.

Upon an indictment for an offense consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the indictment, and guilty of any degree inferior thereto; upon an indictment for any offense, the jury may find the defendant not guilty of the commission thereof, and guilty of an attempt to commit the same; upon an indictment for murder, if the jury shall find the defendant not guilty thereof, it may, upon the same indictment, find the defendant guilty of manslaughter in any degree. In all other cases, the defendant may be found guilty of any offense, the commission of which is necessarily included in that with which he is charged in the indictment.

History: *RL s 5371 (10718)*

631.15 VERDICT AS TO SOME DEFENDANTS, AND DISAGREEMENT AS TO OTHERS.

On an indictment against several, if the jury cannot agree upon a verdict as to all, it may render a verdict as to those in regard to whom it does agree, on which a judgment shall be entered accordingly; and the case as to the rest may be tried by another jury.

History: *RL s 5372 (10719)*

631.16 [Repealed, 1979 c 233 s 42]

631.17 VERDICT, RECEPTION OF.

When a verdict such as the court may receive is returned, the clerk shall immediately file it in open court and read it to the jury, and inquire of the jurors if it is their verdict. If any juror shall disagree, that fact shall be entered upon the minutes, and the jury again sent out; but, if no disagreement is expressed, the verdict is complete, and the jury shall be discharged from the case. The clerk shall forthwith record such verdict in full in the court minutes.

History: *RL s 5374; 1955 c 32 s 1 (10721)*

631.18 [Repealed, 1979 c 233 s 42]

631.19 [Repealed, 1979 c 233 s 42]

631.20 HEARING ON PUNISHMENT.

After a plea or verdict of guilty, in a case where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the suggestion of either party that there are circumstances which may be properly taken into view, either in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily, at a specified time, and upon such notice to the adverse party as it may direct. Such circumstances shall be presented by the testimony of witnesses examined in open court.

History: *RL s 5377 (10724)*

631.21 DISMISSAL OF CAUSE; RECORD OF REASONS FOR.

The court may, either of its own motion or upon the application of the prosecuting officer, and in furtherance of justice, order any criminal action, whether prosecuted upon indictment, information, or complaint, to be dismissed; but in that case the reasons for the dismissal shall be set forth in the order, and entered upon the minutes, and the recommendations of the prosecuting officer in reference thereto, with his reasons therefor, shall be stated in writing and filed as a public record with the official files of the case.

History: *RL s 5378; 1927 c 296 (10725)*

CHALLENGING JURORS

631.22 CHALLENGES CLASSIFIED; DEFENDANTS MUST JOIN.

A challenge is an objection made to a trial jury, and is of two kinds:

- (1) To the panel;
- (2) To an individual juror.

When several defendants are tried together, they cannot sever the challenge, but shall join therein.

History: *RL s 5382 (10729)*

631.23 [Repealed, 1979 c 233 s 42]

631.24 [Repealed, 1979 c 233 s 42]

631.25 [Repealed, 1979 c 233 s 42]

631.26 [Repealed, 1979 c 233 s 42]

631.27 [Repealed, 1979 c 233 s 42]

631.28 [Repealed, 1979 c 233 s 42]

631.29 [Repealed, 1979 c 233 s 42]

631.30 [Repealed, 1979 c 233 s 42]

631.31 [Repealed, 1979 c 233 s 42]

631.32 [Repealed, 1979 c 233 s 42]

631.33 [Repealed, 1977 c 286 s 21]

631.34 [Repealed, 1979 c 233 s 42]

631.35 [Repealed, 1979 c 233 s 42]

631.36 CHALLENGED JUROR EXAMINED; EVIDENCE.

Upon the trial of a challenge to an individual juror, he may be examined as a witness to prove or disprove the challenge, and is bound to answer every question pertinent to the inquiry and, when challenged on the ground that he is not a citizen of the United States, his own testimony shall be competent evidence of the fact of naturalization, without other evidence; but his testimony may be disputed by the challenger. Other witnesses may also be examined on either side, and the rules of evidence applicable to the trial of other issues shall govern the admission or exclusion of testimony on the trial of the challenge.

History: *RL s 5396 (10743)*

631.37 [Repealed, 1979 c 233 s 42]

631.38 [Repealed, 1979 c 233 s 42]

631.39 [Repealed, 1979 c 233 s 42]

JUDGMENTS, EXECUTION THEREOF

631.40 JUDGMENT ON CONVICTION; JUDGMENT ROLL.

When judgment upon a conviction shall be rendered, the clerk shall enter the same upon the minutes, stating briefly the offense for which the conviction was had, and immediately annex together and file the following papers, which constitute the judgment roll:

- (1) A copy of the minutes of challenge interposed by the defendant to the panel of the grand jury, or to an individual grand juror, and the proceedings and decisions thereon;
- (2) The indictment and a copy of the minutes of the plea or demurrer;
- (3) A copy of the minutes of any challenge interposed to the panel of the trial jury or to an individual juror, and the proceedings and decision thereon;

- (4) A copy of the minutes of the trial;
- (5) A copy of the minutes of the judgment;
- (6) The bill of exceptions, if there be one.

History: *RL s 5410 (10757)*

631.41 CLERK TO DELIVER TRANSCRIPT TO SHERIFF.

When any person convicted of an offense shall be sentenced to pay a fine or costs, or to be imprisoned in the county jail or the Minnesota correctional facility-Stillwater, the clerk of the court shall, as soon as may be, make out and deliver to the sheriff or his deputy a transcript from the minutes of the court of such conviction and sentence, duly certified by such clerk, which shall be a sufficient authority for the sheriff to execute such sentence; and he shall execute the same accordingly.

History: *RL s 5411; 1979 c 102 s 13 (10758)*

631.412 TRANSFER OF FEMALE PRISONERS; FEMALE TO ACCOMPANY.

Every sheriff and every other person having the legal custody of any female person charged with crime or the detention of any female person are hereby required, when such female person is being conducted to or from one place to another over 25 miles apart, to have a suitable female person accompany such female person, and every sheriff in every county of this state is hereby authorized to employ, when the occasion exists, a suitable female person to carry out the provisions of this section. The expenses of such employment shall be paid out of any county funds not otherwise appropriated.

History: *1927 c 213 s 1 (9950-4)*

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

631.425 EMPLOYMENT OF OFFENDERS AT THEIR CUSTOMARY WORK.

Subdivision 1. Definitions. For the purposes of this section "court" means any court having criminal jurisdiction; "sheriff" includes chief of police and workhouse superintendent; and "jail" includes county jail, workhouse, and lockup.

Subd. 2. Discretion of court. Any convicted prisoner at the time he is sentenced to jail, or at any time prior to commitment, may in the discretion of the sentencing court be committed under this section. If so committed, the sentence shall so provide.

Subd. 3. Continuation of employment. If the person so committed has been regularly employed, the sheriff shall arrange for a continuation of the employment insofar as possible without interruption. If the person is not employed on any job, the sheriff or any suitable person or agency designated by the court shall make every effort to secure some suitable employment for him. Any prisoner so employed shall be paid a fair and reasonable wage for such work and shall work at fair and reasonable hours per day and per week.

Subd. 4. Confinement when not employed. Unless the court otherwise directs, each prisoner shall be confined in jail during such time as he is not employed, or, if employed, between the times of employment.

Subd. 5. Earnings. The earnings of the prisoner may be collected by the sheriff, probation department, welfare board or suitable person or agency designated by the court. From such earnings the person or agency designated to collect them may pay the cost of the prisoner's maintenance, both inside and outside the jail, but the charge for maintenance inside the jail shall not exceed the

legal daily allowance for board allowed the sheriff for ordinary prisoners, and, to the extent directed by the court, pay the support of his dependents, if any, and court costs and fines, if any. Any balance shall be retained until his discharge when it shall be paid to him.

Subd. 6. **Reduction of sentence.** The term of the prisoner's sentence may be reduced by one-fourth, if in the opinion of the court his conduct, diligence, and general attitude merit such reduction.

Subd. 7. **Violation of sentence, procedure.** In case of the violation of the conditions laid down for his conduct, custody and employment, the prisoner shall be returned to the court; and it may then require that the balance of his sentence be spent in actual confinement and may cancel any earned reduction of his term, and he may be found in contempt of court.

Subd. 8. **Sheriff, extra compensation.** The sheriff shall receive such extra compensation and mileage as the county board or local governing board determines.

Subd. 9. **Employment in another county.** The court may by order authorize the sheriff to whom the prisoner is committed to arrange with another sheriff for the employment of the prisoner in the other's jurisdiction, and while so employed to be in the other's custody but in other respects to be and continue subject to the commitment.

Subd. 10. **County welfare board, duties.** Any committing court or sheriff may request the county welfare board or any other welfare agency, public or private, to provide appropriate services to a prisoner or his family.

Subd. 11. **Applicable in contempt cases.** The provisions of this section shall extend to a person committed to the county jail by a court of record upon an adjudication of contempt of court.

Subd. 12. **Report by court.** On December 31 of each year, each court that has committed a prisoner in accordance with this section shall file with the department of corrections, in such form as may be prescribed by the department, the number of persons committed, the offenses for which they were committed, the number who had previously been sentenced under this section, and such other statistical information as shall be prescribed by the department.

History: 1957 c 715 s 1; 1961 c 617 s 1-4

631.43 SENTENCE WHEN PUNISHMENT NOT PRESCRIBED.

When no punishment shall be provided by statute, the court shall award such sentence as, in view of the degree and aggravation of the offense, shall not be cruel, unusual, or repugnant to the constitutional rights of the party.

History: RL s 5414 (10760)

631.44 RECOGNIZANCE TO KEEP PEACE.

Every court before whom any person shall be convicted upon an indictment for any offense not punishable by death or imprisonment in the Minnesota correctional facility-Stillwater or county jail, in addition to the punishment prescribed by law, may require such person to recognize, with sufficient sureties, in a reasonable sum, to keep the peace and be of good behavior for any term not more than two years, and to stand committed until he shall so recognize.

History: RL s 5415; 1979 c 102 s 13 (10761)

631.45 RECOGNIZANCE TO KEEP PEACE; BREACH.

In case of the breach of the conditions of any such recognizance, the same proceedings shall be had that are by law prescribed in relation to recognizances to keep the peace.

History: *RL s 5416 (10762)*

631.46 JAIL SENTENCE; WHEN NO JAIL IN COUNTY.

When it shall appear to the court at the time of passing sentence upon any convict to be punished by confinement in the county jail that there is no suitable jail in the county in which the offense was committed, it may order sentence to be executed in any other county where there shall be a suitable jail; and the expense of supporting him shall be paid by the county in which the offense was committed.

History: *RL s 5417 (10763)*

631.461 SENTENCES OF CONVICTS.

When a sentence may be imprisonment in a county jail, the offender may be sentenced to and imprisoned in a workhouse, or workfarm if there be one in the county where he is tried or where the offense was committed, and if there be no workhouse or workfarm in the county where the offender is tried or where the offense was committed, then the offender may be sentenced to and imprisoned in a workhouse or workfarm in any county in this state; provided, that the county board of the county where the offender is tried shall have some agreement for the receipt, maintenance, and confinement of the prisoners with the latter county. The place of imprisonment shall be specified in the sentence. Convicts may be removed from one place of confinement to another when so provided by statute.

History: *RL s 4775; 1933 c 329; 1963 c 130 s 1; 1963 c 753 art 2 s 8 (9934)*

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

631.471 CONVICTS PROTECTED; CERTAIN FORFEITURES ABOLISHED.

Every convict sentenced to imprisonment shall be under the protection of the law, and any unauthorized injury to his person is punishable in the same manner as if he were not convicted or sentenced. A conviction for any crime does not work a forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures in the nature of deodands, or in a case of suicide, or where a person flees from justice, are abolished.

History: *RL s 4777 (9939)*

631.48 PENALTY MAY INCLUDE COSTS OF PROSECUTION.

In all criminal actions, upon conviction of defendant, in addition to the punishment prescribed and as a part of the sentence, the court may adjudge that defendant shall pay the whole or any part of the disbursements of the prosecution, and payment thereof may be enforced in the same manner as the sentence, or by execution against property. When collected, such disbursements shall be paid into the treasury of the county where conviction was had, but this shall not interfere with the payment of officers', witnesses', or jurors' fees.

History: *RL s 4352 (9485)*

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

631.50 ALIEN CONVICTS OR MENTALLY ILL PERSONS; NOTICE TO UNITED STATES IMMIGRATION OFFICERS.

When any person convicted of a felony, or found to be mentally ill, shall be committed to the Minnesota correctional facility-Stillwater, the Minnesota correctional facility-St. Cloud, the county jail, or any other state or county institution which is supported, wholly or in part, by public funds, it shall be the duty of the chief executive officer, sheriff, or other officer in charge of such state or county institution to at once inquire into the nationality of such person, and, if it shall appear that such person is an alien, to immediately notify the United States immigration officer in charge of the district in which such correctional facility, jail, or other institution is located, of the date of and the reasons for such alien commitment, the length of time for which committed, the country of which he is a citizen, and the date on which and the port at which he last entered the United States.

History: 1927 c 301 s 1; 1976 c 2 s 155; 1979 c 102 s 13 (9950-1)

631.51 CERTIFIED COPIES OF INDICTMENT FURNISHED TO IMMIGRATION OFFICERS.

Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien, for the conviction of a felony, to any state or county institution which is supported, wholly or in part, by public funds, it shall be the duty of the clerk of such court to furnish without charge a certified copy of the complaint, information, or indictment and the judgment and sentence and any other record pertaining to the case of the convicted alien.

History: 1927 c 301 s 2 (9950-2)