

CHAPTER 629

EXTRADITION, DETAINERS, ARREST, BAIL

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629.03 DEMAND IN WRITING.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless it alleges in writing, except in cases arising under section 629.06, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that he subsequently fled from the state. The demand shall be accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a court there, together with a copy of any warrant which was issued on it; or by a copy of a judgment of conviction or of a sentence imposed in execution of it, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation, or parole. The indictment, information, or affidavit made before the court must substantially charge the person demanded with having committed a crime under the law of that state. The copy of the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

History: 1983 c.359 s 120

629.13 WHO MAY BE APPREHENDED.

When any person within this state is charged on the oath of any credible person before any judge of this state with the commission of any crime in any other state and, except in cases arising under section 629.06, with having fled from justice, with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation, or parole, or when complaint has been made before any judge in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in the other state and that the accused has been charged in that state with the commission of the crime and, except in cases arising under section 629.06, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation, or parole, and is believed to be in this state, the judge shall issue a warrant directed to any peace officer commanding him to apprehend the person named in it, wherever he may be found in this state, and to bring him before the same or any other judge or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit.

A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

History: 1983 c 359 s 121

629.14 ARREST WITHOUT WARRANT.

The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year. When arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 629.13. Thereafter his answer shall be heard as if he had been arrested on a warrant.

History: 1983 c 359 s 122

629.15 COURT MAY COMMIT TO JAIL.

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 629.06, that he has fled from justice, the judge must, by a warrant reciting the accusation, commit him to the county jail for a time, not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused gives bail as provided in section 629.16, or until he is legally discharged.

History: 1983 c 359 s 123

629.16 ADMIT TO BAIL.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in the bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

History: 1983 c 359 s 124

629.17 DISCHARGE.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge may discharge him or may recommit him for a further period not to exceed 60 days. A judge may again take bail for his appearance and surrender, as provided in section 629.16, but within a period not to exceed 60 days after the date of the new bond.

History: 1983 c 359 s 125

629.18 BOND FORFEITED.

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge by proper order shall declare the bond forfeited and order his immediate arrest without warrant if he is within this

state. Recovery may be had on the bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

History: 1983 c 359 s 126

629.23 PROSECUTING ATTORNEY, WRITTEN APPLICATION.

[For text of subs 1 and 2, see M.S.1982]

Subd. 3. **Procedural requirements.** The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, chief executive officer, or sheriff may also attach any further affidavits and other documents in duplicate as deemed proper to be submitted with the application. One copy of the application, with the action of the governor indicated by endorsement on it, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

History: 1983 c 359 s 127

629.31 TIME OF ARREST.

If the offense charged is a felony, arrest may be made on any day and at any time of the day or night; if it is a misdemeanor, arrest shall not be made on Sunday or between the hours of 9:00 p.m. and 9:00 a.m. on any other day unless upon the direction of the judge endorsed upon the warrant.

History: 1983 c 359 s 128

629.341 PROBABLE CAUSE ARRESTS; DOMESTIC VIOLENCE; IMMUNITY FROM LIABILITY.

Subdivision 1. **Arrest.** Notwithstanding the provisions of section 629.34 or any other law or rule to the contrary, a peace officer may arrest without a warrant a person anywhere, including at his place of residence if the peace officer has probable cause to believe the person within the preceding four hours has assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm his spouse, former spouse, other person with whom he resides or has formerly resided, although the assault did not take place in the presence of the peace officer.

Subd. 2. **Immunity.** Any peace officer acting in good faith and exercising due care in the making of an arrest pursuant to subdivision 1 shall have immunity from civil liability that otherwise might result by reason of his action.

Subd. 3. **Notice of rights.** The peace officer shall advise the victim of the availability of a shelter or other services in the community and give the victim immediate notice of the legal rights and remedies available. The notice shall include furnishing the victim a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an order for protection from domestic abuse which could include the following: (a) an order restraining the abuser from

further acts of abuse; (b) an order directing the abuser to leave your household; (c) an order preventing the abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; (e) an order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

The notice shall include the resource listing, including telephone number, for the area battered women's shelter, to be designated by the department of corrections.

Subd. 4. Report required. Whenever a peace officer investigates an allegation that an incident described in subdivision 1 has occurred, whether or not an arrest is made, the officer shall make a written police report of the alleged incident. The officer must submit the report to his supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made.

Subd. 5. Training. The board of peace officer standards and training shall provide a copy of this section to every law enforcement agency in this state on or before June 30, 1983.

Upon request of the board of peace officer standards and training to the bureau of criminal apprehension, the subject matter of at least one training course must include instruction in the subject matter of domestic abuse. Every basic skills course required in order to obtain initial licensure as a peace officer must, after January 1, 1985, include at least three hours of training in handling domestic violence cases.

History: 1983 c 226 s 1

629.36 ARREST BY BYSTANDER.

A peace officer may take before a judge a person who, being engaged in a breach of the peace, is arrested by a bystander and delivered to him. When a public offense is committed in the presence of a judge, he may, by written or verbal order, command any person to arrest the offender, and then proceed as if the offender had been brought before him on a warrant of arrest.

History: 1983 c 359 s 129

629.363 CONDUCTOR; AUTHORITY TO ARREST.

Every conductor of a railway train, with or without warrant, may arrest any person committing any act upon the train specified in sections 609.605 and 609.72, and take him before a judge or to the next railway station, and deliver him to the proper officer, or to the station agent, who shall take the person before the proper judge or deliver him to the officer. Every conductor and station agent shall in such case possess all the powers of a sheriff with a warrant.

History: 1983 c 359 s 130

629.364 ARRESTS.

Every person may, and every conductor or other employee on any railway car or train, captain, clerk, or other employee on any boat, station agent at any depot, officer of any fair or fairground, proprietor or employee of any place of public resort, with or without warrant, shall, arrest any person found in the act of committing any of the offenses described in section 609.52, subdivision 2, clause (4), or any person who, he has good reason to believe, has been guilty of the

offense, and take him before a court having jurisdiction, and make written complaint under oath against him. Every person making an arrest shall have the same power and authority in all respects as an officer with a warrant, including the power to summon assistance. The person shall also arrest the person injured by reason of the offense, and take him before a court, which shall require him to give security for his appearance as a witness on trial of the case. The person shall receive for his services the same compensation as is provided for sheriffs.

History: 1983 c 359 s 131

629.39 PRIVATE PERSON MAKING ARREST, PROCEEDINGS.

Every private person who arrests another for the commission of a public offense shall, without unnecessary delay, take him before a judge or deliver him to a peace officer. If a person arrested escapes, the person from whose custody he has escaped may immediately pursue and retake him, at any time and in any place in the state. For that purpose, after notice of his intention and refusal of admittance, he may break open any door or window of a dwelling house.

History: 1983 c 359 s 132

629.401 DELAYING TO TAKE PRISONER BEFORE JUDGE.

Every public officer or other person having arrested any person upon a criminal charge, who shall willfully and wrongfully delay to take him before a judge having jurisdiction to take his examination, is guilty of a gross misdemeanor.

History: 1983 c 359 s 133

629.403 REFUSING TO MAKE ARREST OR TO AID OFFICER.

Every person who, after having been lawfully commanded by any judge to arrest another person, willfully neglects or refuses to do so, and every person who, after having been lawfully commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process, willfully neglects or refuses to aid the officer, is guilty of a misdemeanor.

History: 1983 c 359 s 134

629.41 PROCESS, ISSUANCE.

Judges, in vacation as well as in term time, are authorized to issue process to carry into effect the provisions of law for the apprehension of persons charged with offenses.

History: 1983 c 359 s 135

629.44 RECOGNIZANCE BY OFFENDER, DUTY OF JUDGE.

In every case where the offense charged in the warrant is not punishable by imprisonment in the Minnesota Correctional Facility-Stillwater, upon request of the person arrested, the officer making the arrest shall take him before a judge of the county in which the arrest is made, for the purpose of entering into a recognizance without trial or examination. The judge may take from him a recognizance with sufficient sureties for his appearance before the court having jurisdiction of the offense in the county, and he shall then be liberated. The judge taking bail shall certify that fact upon the warrant, and deliver it, with the recognizance, to the person making the arrest, who shall deliver it, without

unnecessary delay, to the clerk of the court before which the accused was recognized to appear. On application of the complainant, the judge who issued the warrant, or the county attorney, shall summon any witnesses as he deems necessary.

History: 1983 c 359 s 136

629.45 BAIL REFUSED; PROCEEDINGS.

If the judge in the county where the arrest was made refuses to bail the person arrested and brought before him, or if no sufficient bail is offered, the person having him in charge shall take him before the judge who issued the warrant, or, in his absence, before some other judge of the county in which the warrant was issued, to be proceeded with as directed.

History: 1983 c 359 s 137

629.53 BAIL; COMMITMENT.

When at the close of an examination it appears that an offense has been committed, and that there is probable cause to believe the prisoner to be guilty, if the offense be bailable by the judge, and the prisoner offers sufficient bail or money in lieu thereof, it shall be taken, and he shall be discharged. If no sufficient bail is offered, or the offense is not bailable by the judge, he shall be committed for trial. When cash bail is deposited in lieu of other bail, the cash shall be the property of the accused, whether deposited by him personally or by any third person in his behalf. When cash bail is accepted by a judge, he shall order it to be deposited with the clerk who shall retain it until the final disposition of the case and the further order of the court relative to it. Upon release, in whole or in part, the amount released shall be paid to the accused personally or upon his written order. In case of conviction, the judge may order the deposit to be applied upon any fine imposed and, if the fine is less than the deposit, the balance shall be paid to the defendant. If the fine exceeds the deposit, the deposit shall be applied to it and the defendant committed until the balance is paid. The commitment shall not exceed one day's time for each dollar of the unpaid balance. Cash bail in the hands of the court or any officer of it shall be exempt from garnishment or levy under attachment or execution.

History: 1983 c 359 s 138

629.54 WITNESSES TO RECOGNIZE; COMMITMENT.

When a prisoner is admitted to bail, or committed by the judge, he shall also bind by recognizance any witnesses against the prisoner as he deems material, to appear and testify at the court to which the prisoner is held to answer. If the judge is satisfied that there is good reason to believe that any witness will not perform the conditions of his recognizance unless other security shall be given, he may order him to enter into a recognizance for his appearance, with sureties as he deems necessary. Except in case of murder in the first degree, arson where human life is destroyed, and cruel abuse of children, he shall not commit any witness who offers to recognize, without sureties, for his appearance.

History: 1983 c 359 s 139

629.55 REFUSAL TO RECOGNIZE.

A witness required to recognize, with or without sureties, who refuses so to do, shall be committed by the judge until the witness complies with the order, or is

otherwise discharged according to law. Every person held as a witness during confinement shall receive the compensation the court before whom the case is pending directs, not exceeding regular witness fees. When a minor is a material witness, any other person may recognize for the appearance of the witness, or the judge may take recognizance of the witness in a sum of not more than \$50, which shall be valid and binding in law notwithstanding the disability.

History: 1983 c 359 s 140

629.56 [Repealed, 1983 c 359 s 151]

629.60 RECOGNIZANCE; WHEN ACTION NOT BARRED.

No action brought on any recognizance shall be barred or defeated, nor judgment on it arrested, by reason of any neglect or omission to note or record the default of any principal or surety at the term when it occurs, or by reason of any defect in the form of the recognizance, if it shall sufficiently appear from the tenor thereof at what court the party or witness was bound to appear, and that the court before whom it was taken was authorized by law to require and take it. When upon action brought upon any recognizance to prosecute an appeal the penalty thereof is adjudged to be forfeited, or when by leave of court the penalty has been paid to the county treasurer or clerk of court without suit or before judgment in a manner provided by law, if by law any forfeiture accrues to any person by reason of the offense of which appellant was convicted, the court may award him the sum he is entitled to out of the forfeiture.

History: 1983 c 359 s 141

629.62 APPLICATION FOR BAIL, JUSTIFICATION.

When a party in custody desires to give bail, the offense beingailable, and the district court is not in session in the county, he may apply to a judge of district court, or a judge of the supreme court, upon his affidavit showing the nature of the application and the names of the persons to be offered as bail, with a copy of the mittimus or papers upon which he is held in custody. The judge may then, by order, direct the sheriff to bring up the party, at a time and place named, for the purpose of giving bail. Notice of the application shall be given to the county attorney, if within the county, and no matters shall be inquired into except those which relate to the amount of bail and the sufficiency of the sureties. Sureties shall in all cases justify by affidavit, or upon oral examination before the court.

History: 1983 c 359 s 142

629.66 [Repealed, 1983 c 359 s 151]

629.71 [Repealed, 1983 c 359 s 151]

629.72 BAIL IN CASES OF DOMESTIC ASSAULT.

[For text of subs 1 to 3, see M.S.1982]

Subd. 4. **Service of order for protection.** If an order for protection is issued pursuant to section 518B.01 while the arrested person is still in detention, the order shall be served upon the arrested person during detention if possible.

History: 1983 c 226 s 2