CHAPTER 589

HABEAS CORPUS

589.01 WRIT OF HABEAS CORPUS; WHO MAY APPLY.

A person imprisoned or otherwise restrained of liberty, except persons committed or detained by virtue of the final judgment of a competent tribunal of civil or criminal jurisdiction, or by virtue of an execution issued upon the judgment, may apply for a writ of habeas corpus to obtain relief from imprisonment or restraint. For purposes of this section, an order of commitment for an alleged contempt or an order upon proceedings as for contempt to enforce the rights or remedies of a party is not a judgment, nor does attachment or other process issued upon these types of orders constitute an execution.

History: *(9739) RL s 4573; 1985 c 265 art 9 s 1*

589.011 DEFINITIONS.

Subdivision 1. **In this chapter.** In this chapter, the words listed in this section have the meanings or inclusions given them here.

Subd. 2. **Detaining authority.** "Detaining authority" includes a state or local correctional agency or officer or employee of that agency or any other public or private agency or person that is alleged in the writ of habeas corpus to have restrained or imprisoned the petitioner.

Subd. 3. **Petitioner.** "Petitioner" means a person who is imprisoned or otherwise restrained of liberty and who applies for a writ of habeas corpus to obtain release.

History: *1985 c 265 art 9 s 1*

589.02 PETITION; TO WHOM AND HOW MADE.

A person may apply for a writ of habeas corpus by petition addressed to the supreme court, court of appeals, or to the district court of the county where the petitioner is detained. The petition must be signed and verified by the petitioner or some person applying on the petitioner's behalf. If there is within the county a judge of the court to which the petition is addressed, that judge may grant the writ. If there is no judge within the county capable of acting and willing to grant the writ, it may be granted by a judge in an adjoining county.

History: *(9740) RL s 4574; 1983 c 247 s 198; 1985 c 265 art 9 s 1*

589.03 APPLICATION FOR A WRIT IN ANOTHER COUNTY; PROOF REQUIRED.

When application for a writ of habeas corpus is made to a judge whose chambers are not located within the county where the prisoner is detained, that judge shall require proof, by the oath of the applicant or other evidence:

(1) that there is no judge in the detaining county authorized to grant the writ;

(2) that judges authorized to grant the writ are absent from the detaining county;

(3) that judges in the detaining county for reasons specified are incapable of acting; or

(4) that judges in the detaining county have refused to grant the writ.

If the proof required by this section is not produced, the application must be denied.

History: *(9741) RL s 4575; 1985 c 265 art 9 s 1*

589.04 STATEMENTS IN PETITION.

A petition for a writ of habeas corpus must contain information set forth in paragraphs (a) to (e):

(a) It must state that the person on whose behalf the writ is applied for is imprisoned or restrained of liberty, the name of the officer or person by whom the person is imprisoned or restrained, and the place where that person is imprisoned or restrained.

(b) It must name the restrained and the restraining person if their names are known, or describe them if they are not.

(c) It must state that the restrained person is not committed or detained under process, judgment, decree, or execution, as specified in section 589.01.

(d) It must state the basis of the confinement or restraint, according to the knowledge or belief of the party verifying the petition.

(e) If the confinement or restraint is under warrant, order, or process, the petitioner shall attach a copy of the document authorizing the confinement or restraint to the petition. The petitioner shall also attach copies of all papers which are attached to or accompany the warrant, order, or process to the petition. If the confinement results from conviction of a crime and sentence, the petitioner shall include a transcript of the proceedings taken at the time of arraignment and sentence in the court which imposed the sentence. If the petitioner is unable to attach the documents required by this paragraph, the petitioner shall state the reasons for not doing so. Documentation is not required when:

(1) the petitioner is removed or concealed before application for a writ was made; or

(2) a demand for documentation was made but the person to whom the demand was made refused to supply the document requested.

(f) If the imprisonment is alleged to be illegal, the petition shall state in what the illegality consists.

If the imprisonment which is claimed to be illegal is under a district court judgment or sentence, the judge before whom the petition is pending may examine the official files and records of the court issuing the warrant of commitment, including any official transcript of the proceedings taken at the time of the arraignment and sentence. A judge before whom a petition is pending may take judicial notice of official records or transcripts to determine the sufficiency of the petition or the propriety of issuing the writ of habeas corpus.

History: *(9742) RL s 4576; 1961 c 613 s 1; 1985 c 265 art 9 s 1*

589.05 FORM OF WRIT; REQUIREMENTS.

A writ of habeas corpus must be under the seal of the court, and substantially in the following form:

"The State of Minnesota, to the Sheriff of, etc. (or to A.B.):

You are commanded to bring C.D., who is imprisoned and detained by you, by whatever name C.D. is called or charged, before E.F., judge of the ..... court, at ....., on ..... (or immediately after the receipt of this writ), to receive the court's judgment on the legality of the detention. Bring this writ to the hearing and be prepared to tell the court the time and cause of imprisonment and detention.

Witness, etc."

History: *(9743) RL s 4577; 1985 c 265 art 9 s 1*

589.06 CONTENTS OF WRIT; WHEN SUFFICIENT.

The writ may not be disobeyed because of any defect of form. A writ is sufficient if the petitioner and the person to whom the writ is directed are designated in it with reasonable certainty, by name, description, or otherwise. Either the petitioner or the person to whom the writ is directed may be designated by an assumed name if the true name is unknown or uncertain. The person served with the writ is considered to be the person to whom it is directed, although the name or description is wrong, or is that of another person.

History: *(9744) RL s 4578; 1985 c 265 art 9 s 1; 1986 c 444*

589.07 REFUSAL TO GRANT; PENALTY.

If a judge authorized to grant writs of habeas corpus willfully refuses to grant the writ when legally applied for, the judge shall forfeit to the party aggrieved $1,000 for each offense.

History: *(9745) RL s 4579; 1985 c 265 art 9 s 1*

589.08 RETURN TO WRIT; CONTENT REQUIREMENTS.

The detaining authority upon whom a writ of habeas corpus is duly served shall state in the return, plainly and unequivocally, the information specified in paragraphs (a) to (c):

(a) The return shall state whether the detaining authority is detaining or has at any time in the past detained the petitioner. If the petitioner was detained before or after the writ was issued, the detaining authority shall indicate the date and time of detention.

(b) If the petitioner is being detained, the detaining authority shall state the reason for detention and authority under which the person is being detained.

(c) If the detaining authority has detained the petitioner at any time before or after the date of the writ, but has transferred custody to another, the return must state particularly to whom, at what time, for what cause, and by what authority, the transfer took place.

If the petitioner is detained under writ, warrant, or other written authority, a copy of the document authorizing detention must be attached to the return. On the return of the writ to the judge before whom the writ is returnable, a copy of the original document authorizing detention must be produced and exhibited.

The person making the return must sign it and except where the person is a sworn public officer, and makes the return in an official capacity, verify it by oath.

History: *(9746) RL s 4580; 1985 c 265 art 9 s 1; 1986 c 444*

589.09 PRODUCING PERSON REQUIRED EXCEPT WHEN SICK.

The person on whom the writ is served shall bring the person being detained, according to the command of the writ, to the judge named on the writ except when the detained person is sick, as provided in section 589.20.

History: *(9747) RL s 4581; 1985 c 265 art 9 s 1*

589.10 ENFORCING THE WRIT.

If the person upon whom the writ is served refuses or neglects to produce the person named in it and make a full return of the writ at the time and place required and does not give sufficient excuse, the judge before whom the writ is returnable, upon proof of service of it, shall immediately issue an attachment against the person, directed to the sheriff or coroner of any county. The attachment must direct the sheriff or coroner to apprehend the person upon whom the writ is served as soon as possible and bring that person before the judge before whom the writ is returnable. The judge before whom the writ is returnable shall commit the person apprehended under the attachment to the county jail until that person makes the return and complies with all other orders made by the judge.

History: *(9748) RL s 4582; 1985 c 265 art 9 s 1*

589.11 PETITIONER HELD IN CUSTODY BY SHERIFF.

The judge who issues an attachment under section 589.10 may also, at the same time or afterward, issue an order to the sheriff or other person to whom the attachment was directed, commanding the bringing of the petitioner before that judge immediately. After that, the petitioner must remain in the custody of the sheriff or other person until discharged, bailed, or remanded, as the judge may direct.

History: *(9749) RL s 4583; 1985 c 265 art 9 s 1; 1986 c 444*

589.12 PROCEEDINGS ON RETURN OF WRIT.

Immediately after the return of the writ, the judge before whom the petitioner is brought shall examine the facts set forth in the return, the cause of the imprisonment or restraint, and whether the cause was upon commitment for a criminal charge or not.

History: *(9750) RL s 4584; 1985 c 265 art 9 s 1*

589.13 DISCHARGING PETITIONER.

If the judge, under section 589.12, finds no legal cause to support imprisonment or restraint of the petitioner, the judge shall discharge the petitioner.

History: *(9751) RL s 4585; 1985 c 265 art 9 s 1*

589.14 SENDING PETITIONER BACK TO CUSTODY.

The judge shall immediately send the petitioner back to the detaining authority if it appears that the petitioner is detained in custody:

(1) under process issued by a court or judge of the United States, in a case where the court or judge has exclusive jurisdiction;

(2) under final judgment of a competent court of civil or criminal jurisdiction, or under an execution issued upon a judgment of either of those courts; or

(3) for contempt of court, specially and plainly charged in the commitment, by a court having authority to commit for the contempt so charged.

The judge shall also immediately send the petitioner back to the detaining authority if it appears that the time during which the person may be legally detained has not expired.

History: *(9752) RL s 4586; 1985 c 265 art 9 s 1*

589.15 DISCHARGING PETITIONER HELD UNDER CIVIL PROCESS.

If it appears on the return that the petitioner is in custody under a valid civil process of a court, the petitioner can be discharged only in the following cases:

(1) if the jurisdiction of the court has been exceeded, either as to matter, place, sum, or person;

(2) if, though the original imprisonment was lawful, yet, by some act, omission, or event which has taken place afterward, the person is entitled to be discharged;

(3) if the process is defective in some matter of substance required by law, rendering it void;

(4) if the process, though in proper form, has been issued in a case not allowed by law;

(5) if the person having the custody of the petitioner under the process is not the person empowered by law to detain the petitioner; or

(6) if the process is not authorized by a judgment or order of a court, or by a provision of law.

History: *(9753) RL s 4587; 1985 c 265 art 9 s 1*

589.16 WHEN BAIL OR REMAND OR DISCHARGE ALLOWED.

If the petitioner has been legally committed for a criminal offense, or if upon hearing it appears by the testimony offered with the return that the petitioner is guilty of the offense, although the commitment is irregular, the judge before whom the petitioner is brought shall allow release on bail, if good bail is offered, or, if not, the judge shall immediately send that petitioner back to the detaining authority. In other cases the petitioner must be placed in the custody of the person legally entitled to custody, or, if no one is so entitled, the petitioner must be discharged.

History: *(9754) RL s 4588; 1985 c 265 art 9 s 1*

589.17 REQUIRING PETITIONER TO BE HELD IN CUSTODY UNTIL JUDGMENT.

Until judgment is given upon the return, the judge before whom the petitioner is brought may either commit the petitioner to the custody of the sheriff of the county, or place the petitioner in other custody as the petitioner's age and other circumstances require.

History: *(9755) RL s 4589; 1985 c 265 art 9 s 1; 1986 c 444*

589.18 NOTICE MUST BE GIVEN TO COUNTY ATTORNEY OR ATTORNEY GENERAL.

In criminal cases, if the petitioner is confined in a county jail or other local correctional facility, notice of the time and place at which the writ is returnable must be given to the county attorney of the county from which the petitioner was committed, if the county attorney is within the petitioner's county. If the petitioner is confined in a state correctional facility, the notice of the time and place at which the writ is returnable must be given to the attorney general, and the attorney general shall appear for the person named as respondent in the writ. In other cases, notice of the time and place at which the writ is returnable must be given to any person interested in continuing the custody or restraint of the petitioner.

History: *(9756) RL s 4590; 1915 c 227 s 1; 1973 c 123 art 5 s 7; 1979 c 102 s 13; 1985 c 265 art 9 s 1*

589.19 DENIAL OF RETURN; NEW MATTER.

At the hearing on the return of the writ, the petitioner may, on oath, deny any of the material facts alleged in the return, or allege any fact to show either that the imprisonment or detention is unlawful, or that the petitioner is entitled to discharge. The judge shall proceed, in a summary way, to hear allegations and admit relevant evidence in support or against imprisonment or detention and, at the conclusion of the hearing, dispose of the petitioner in accordance with law.

History: *(9757) RL s 4591; 1985 c 265 art 9 s 1; 1986 c 444*

589.20 PROCEEDINGS IN CASE OF SICKNESS OF PETITIONER.

When the petitioner is so sick or infirm that the petitioner would be endangered if brought before the judge before whom the writ is returnable, the person having the

petitioner in custody may state that fact in the return. If the judge finds that the statement is true, and the return is otherwise sufficient, the judge shall decide upon the return and dispose of the matter in accordance with law. The petitioner under this section may appear by attorney and plead to the return as if present. If the petitioner is illegally imprisoned or restrained of liberty, the judge shall order those having custody to immediately discharge the petitioner. If the petitioner is legally imprisoned or restrained and is not entitled to be released on bail, the judge shall dismiss the proceedings.

History: *(9758) RL s 4592; 1985 c 265 art 9 s 1; 1986 c 444*

589.21 ENFORCING ORDER OF DISCHARGE.

The judge may enforce obedience to an order for the discharge of the petitioner by attachment, as provided in section 589.10, directed to the person disobeying the order. If a person disobeys an order, that person shall forfeit to the petitioner $1,000 in addition to any special damages sustained by the petitioner.

History: *(9759) RL s 4593; 1985 c 265 art 9 s 1*

589.22 CONDITIONS UNDER WHICH DISCHARGED PETITIONER MAY BE INCARCERATED.

A petitioner who has been discharged upon a writ of habeas corpus may be incarcerated again for the same conduct only under the following circumstances:

(1) if, after discharge for defect of proof or for a material defect in the commitment in a criminal case, the petitioner is arrested again on probable cause and detained in accordance with law;

(2) if the petitioner fails to post bond;

(3) if the petitioner is indicted for the conduct and detained pending criminal proceedings; or

(4) if the petitioner is convicted and sentenced for the conduct.

History: *(9760) RL s 4594; 1985 c 265 art 9 s 1*

589.23 TRANSFERRING OR CONCEALING PERSON; FORFEITURE.

A person who has custody of a petitioner entitled to a writ of habeas corpus and who, with intent to elude the service of the writ or to avoid its effect, (1) transfers the petitioner to the custody or places the petitioner under the power or control of another person, (2) conceals the petitioner, or (3) changes the place of confinement, shall forfeit $400 to the petitioner, recoverable in a civil action.

History: *(9761) RL s 4595; 1985 c 265 art 9 s 1; 1986 c 444*

589.24 REFUSING TO FURNISH COPY OF DOCUMENT AUTHORIZING DETENTION.

An officer or another who detains a person and refuses to deliver a copy of an order, warrant, process, or other authority by which the person is detained to any one who requests the copy and who offers to pay the reproduction costs, shall forfeit $200 to the person detained.

History: *(9762) RL s 4596; 1985 c 265 art 9 s 1; 1986 c 444*

589.25 PERSON SERVING WRIT; BOND.

The writ can be served only by a legal voter of the state. The judge granting it may require a bond to the state in a sum not more than $1,000, conditioned for the payment of all costs and expenses of the proceeding, and the reasonable charges of restoring the petitioner, if sent back to custody, to the person from whose custody the petitioner was taken. The bond must be approved by the judge issuing the writ, and be filed with the court administrator.

History: *(9763) RL s 4597; 1985 c 265 art 9 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

589.26 MANNER OF SERVICE OF WRIT.

The writ of habeas corpus may be served by delivering it to the person to whom it is directed, or, if that person cannot be found, by leaving it at the jail or other place in which the petitioner is confined, with any correctional officer or other person of proper age having charge of the petitioner. If the person upon whom the writ should be served hides, or refuses admittance to the party attempting to serve the writ, it may be served by affixing the writ in some conspicuous place on the outside either of the dwelling house, or of the place where the party is confined.

History: *(9764) RL s 4598; 1985 c 265 art 9 s 1; 1986 c 444*

589.27 WHEN RETURN TO WRIT MUST BE MADE.

If the writ is returnable on a certain day, the person to whom the writ is directed shall make the return and produce the petitioner at the time and place specified in the writ. If the writ is returnable immediately, and the place of return is within 20 miles of the place of service, the return must be made and the petitioner produced within 24 hours. Twenty-four additional hours are allowed for return for each additional 20 miles of distance between the place of return and the place of service.

History: *(9765) RL s 4599; 1985 c 265 art 9 s 1*

589.28 POWER OF COURT NOT RESTRAINED.

Nothing in sections 589.01 to 589.30 is to be construed to prevent a court from issuing a writ of habeas corpus necessary or proper to bring an inmate before it or an inferior court for trial, an omnibus hearing, arraignment, appearance, or to be examined as a witness in a civil or criminal action or proceeding.

History: *(9766) RL s 4600; 1969 c 198 s 1; 1985 c 265 art 9 s 1*

589.29 APPEALS.

A party aggrieved by the final order in proceedings upon a writ of habeas corpus may appeal to the court of appeals as in other civil cases, except that no bond is required of the appellant. Upon filing notice of appeal with the court administrator of the district court, and payment of filing fees, the court administrator shall make, certify, and return to the clerk of the appellate courts copies of the petition, writ, return of respondent, answer, if any, of the relator, and the order appealed from.

History: *(9767) RL s 4601; 1983 c 247 s 199; 1985 c 265 art 9 s 1; 1986 c 3 art 1 s 82*

589.30 HEARING ON APPEAL; COSTS; PAPERS.

Either party in a proceeding upon a writ of habeas corpus may appeal a final order by applying to the court of appeals. The clerk of appellate courts shall serve the order fixing the time of hearing on the adverse party at least five days before the date fixed for the hearing. The hearing must be held not less than six nor more than 15 days from the date of application. No costs or disbursements may be allowed any party to the appeal, nor may any of the papers used on the hearing be required to be printed.

History: *(9768) RL s 4602; 1961 c 660 s 1; 1983 c 247 s 200; 1985 c 265 art 9 s 1*

589.35 RELEASE OF INSTITUTIONALIZED PERSONS FOR JUDICIAL PURPOSES.

Subdivision 1. **Order.** Except as provided in this chapter and chapter 590, a court requiring the appearance of a person confined in a state correctional facility, mental hospital, or other institution after criminal conviction, civil commitment, or under court order, may order the confining institution to release the person into the temporary custody of the court. The order must specify:

(1) the reason for the person's appearance;

(2) to whom the confined person may be released; and

(3) the date and time of the release.

Subd. 2. **Costs.** The court shall, without any cost to the releasing institution, determine and implement a cost-effective and convenient method for obtaining the person's appearance, including requiring the parties to the proceedings to pay all or a part of the costs as otherwise provided by law.

Subd. 3. **Compliance.** Upon receipt of a court order for release under this section, the chief executive officer of the confining institution shall take appropriate steps to comply with the order in a manner which is consistent with public safety.

History: *1982 c 611 s 1; 1985 c 265 art 9 s 1*