

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

CHAPTER XII
PROCEEDINGS TO PREVENT CRIME

772.1 Power of district or municipal judge to cause laws for preservation of public peace to be kept; requiring security to keep peace.

Sec. 1. A district or municipal judge may cause all the laws made for the preservation of the public peace to be kept and, in the execution of this authority, may require a person to give security to keep the peace in the manner provided in this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17388;—CL 1948, 772.1;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 1 of Ch. 162 of R.S. 1846, being CL 1857, § 5959; CL 1871, § 7825; How., § 9435; CL 1897, § 11800; CL 1915, § 15627; and Act 4 of 1858.

772.2 Complaint; examination of complainant and witnesses.

Sec. 2. If a complaint is made in writing and on oath to the district court or a municipal court that a person has threatened to commit an offense against the person or property of another, the judge shall examine on oath the complainant and any witnesses who may be produced.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17389;—CL 1948, 772.2;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 2 of Ch. 162 of R.S. 1846, being CL 1857, § 5960; CL 1871, § 7826; How., § 9436; CL 1897, § 11801; and CL 1915, § 15628.

772.3 Warrant; issuance.

Sec. 3. If the judge determines from the examination that there is just reason to believe the person will commit an offense described in section 2 of this chapter, the judge may enter an order directing the person to appear on a date certain within 7 days. If the person fails to appear as ordered, the court shall issue a warrant. Alternatively, the court may issue a warrant directed to the sheriff or any peace officer, reciting the substance of the complaint and commanding that the person be promptly apprehended and brought before the court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17390;—CL 1948, 772.3;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 3 of Ch. 162 of R.S. 1846, being CL 1857, § 5961; CL 1871, § 7827; How., § 9437; CL 1897, § 11802; and CL 1915, § 15629.

772.4 Trial by jury or before court without jury; conduct of trial and selection of jury; recognizance to keep peace; special verdict.

Sec. 4. (1) If a person is brought before the court by a complaint made under section 2 of this chapter and does not consent to post a recognizance, the court shall conduct a trial and shall determine if a recognizance is required. The person has a right to a trial by jury. The person may, with the consent of the complainant and approval of the court, waive a determination of the facts by a jury and elect to be tried before a judge without a jury. The trial and the selection of a jury shall be conducted in the same manner as a trial and selection of a jury in the same court for a minor offense.

(2) If the judge or jury finds the accused is likely to breach the peace, the court shall require the accused to enter into a recognizance with sufficient sureties approved by the court to keep the peace towards all the people of this state, and especially towards the person or persons named in the complaint. The recognizance shall be in a sum set by the court, for a period as the court directs, but not exceeding 5 years. In determining the amount of the recognizance, the court shall consider the person's employment status, earning ability, and financial resources, and any other special circumstances that may have a bearing on the person's ability to provide that recognizance. The person ordered to post the recognizance may, at any time pursuant to the rules of the court, petition the court to reduce the recognizance or eliminate the requirement of a recognizance. The court may require specific conditions to be a requirement of the recognizance.

(3) The judge or the jury may return a special verdict that the complaint and accusation is groundless or malicious.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17391;—CL 1948, 772.4;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1988, Act 89, Eff. June 1, 1988;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 4 of Ch. 162 of R.S. 1846, being CL 1857, § 5962; CL 1871, § 7828; How., § 9438; CL 1897, § 11803; CL 1915, § 15630; and Act 17 of 1867.

772.5 Compliance with order of court; discharge of accused.

Sec. 5. Upon complying with the order of the court, the party complained of shall be discharged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17392;—CL 1948, 772.5;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 5 of Ch. 162 of R.S. 1846, being CL 1857, § 5963; CL 1871, § 7829; How., § 9439; CL 1897, § 11804; and CL 1915, § 15631.

772.6 Failure to pay recognizance; commitment to county jail; hearing.

Sec. 6. If the person so ordered to recognize refuses or neglects to provide that recognizance, the court shall commit the person to the county jail during the period for which security was required, or until the person provides that recognizance. A person shall not be incarcerated for failure to pay the recognizance unless the court conducts a hearing and determines that the person has the resources to pay the recognizance and has not made a good faith effort to do so. In determining whether to incarcerate the person, the court shall also consider the person's employment status, earning ability, and financial resources; the willfulness of the person's failure to pay the recognizance; and any other special circumstances that may have a bearing on the person's ability to pay the recognizance. The court shall state in the warrant the cause of commitment with the sum and the time for which the security was required.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17393;—CL 1948, 772.6;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 6 of Ch. 162 of R.S. 1846, being CL 1857, § 5964; CL 1871, § 7830; How., § 9440; CL 1897, § 11805; and CL 1915, § 15632.

772.7 Discharge of accused; unfounded, frivolous, or malicious complaint; payment of cost.

Sec. 7. If upon examination the court determines there is not just cause to believe that an offense will be committed by the person against whom the complaint is made, the person shall promptly be discharged. If the court finds the complaint unfounded, frivolous, or malicious, the court shall order the complainant to pay the costs of the prosecution.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17394;—CL 1948, 772.7;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 4 and 7 of Ch. 162 of R.S. 1846, being CL 1857, §§ 5962 and 5965; CL 1871, §§ 7828 and 7831; How., §§ 9438 and 9441; CL 1897, §§ 11803 and 11806; CL 1915, §§ 15630 and 15633; and Act 17 of 1867.

772.8 Allowance and payment of costs.

Sec. 8. If an order respecting costs is not made by the court, costs shall be allowed and paid in the same manner as costs in a prosecution of a minor offense in the same court. If a person is required to give security to keep the peace, the court may further order that the costs of prosecution or any part of those costs be paid by that person. The person shall be committed until the costs are paid or until the person is otherwise legally discharged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17395;—CL 1948, 772.8;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 8 of Ch. 162 of R.S. 1846, being CL 1857, § 5966; CL 1871, § 7832; How., § 9442; CL 1897, § 11807; and CL 1915, § 15634.

772.9 Appeal from order to recognize to keep peace.

Sec. 9. A person ordered by the court to recognize to keep the peace may, on giving the recognizance, appeal from the order in the same manner as provided for an appeal from a judgment on a misdemeanor prosecution entered in the same court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17396;—CL 1948, 772.9;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 9 of Ch. 162 of R.S. 1846, being CL 1857, § 5967; CL 1871, § 7833; How., § 9443; CL 1897, § 11808; and CL 1915, § 15635.

772.10 Appellate court to affirm order, discharge appellant, or require appellant to enter into new recognizance; costs.

Sec. 10. The circuit court or the recorder's court of the city of Detroit, before which the appeal is taken may affirm the order of the judge, discharge the appellant, or require the appellant to enter into a new recognizance with sufficient sureties in a sum and for a period not exceeding 5 years, as the appellate court considers proper. The circuit court or recorder's court of the city of Detroit also may order the payment of the costs of the prosecution as the court considers just.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17397;—CL 1948, 772.10;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 11 of Ch. 162 of R.S. 1846, being CL 1857, § 5969; CL 1871, § 7835; How., § 9445; CL 1897, § 11809;

and CL 1915, § 15636.

772.11 Failure to prosecute appeal; effect on recognizance; costs; condition.

Sec. 11. If a person appealing fails to prosecute the appeal, the person's recognizance shall remain in full force and effect without an affirmation of the judgment or order of the district or municipal court. The recognizance shall serve as a security for any costs that may be ordered by the court appealed to. The costs shall be paid by the appellant. The payment of costs shall be a condition incorporated in all recognizances given under section 8 of this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17398;—CL 1948, 772.11;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 12 of Ch. 162 of R.S. 1846, being CL 1857, § 5970; CL 1871, § 7836; How., § 9446; CL 1897, § 11810; and CL 1915, § 15637.

772.12 Discharge of person committed upon giving required security.

Sec. 12. A person committed for not finding sureties, or for refusing to recognize, as required by the court may be discharged from custody by the judge who entered the order or any other judge from the same court and judicial district when the person gives the security required.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17399;—CL 1948, 772.12;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 13 of Ch. 162 of R.S. 1846, being CL 1857, § 5971; CL 1871, § 7837; How., § 9447; CL 1897, § 11811; and CL 1915, § 15638.

772.13 Filing true copy of peace bond.

Sec. 13. The clerk of the court shall file a true copy of a peace bond issued under this chapter with the law enforcement agency or agencies having jurisdiction of the area in which the complainant resides or works.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17400;—CL 1948, 772.13;—Am. 1978, Act 316, Imd. Eff. July 10, 1978;—Am. 1980, Act 471, Eff. Mar. 31, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 14 of Ch. 162 of R.S. 1846, being CL 1857, § 5972; CL 1871, § 7838; How., § 9448; CL 1897, § 11812; and CL 1915, § 15639.

772.13a Violation of recognizance; arrest by peace officer.

Sec. 13a. If a peace officer has reason to believe that the conditions of a recognizance required under this chapter are being violated in his or her presence or were violated, the peace officer shall arrest the person and hold him or her for presentation to the court on the next day.

History: Add. 1994, Act 71, Eff. July 1, 1994.

772.13b Violation of peace bond; order to appear; warrant; hearing.

Sec. 13b. If the court is presented with allegations that the person violated 1 or more conditions of a peace bond, the court may issue an order directing the person to appear before the court on a date certain within 7 days or may issue a warrant. If the person fails to appear as ordered, the court shall issue a warrant. If the person appears and denies violating any conditions of the recognizance, the court shall schedule a hearing to be held within 7 days. The hearing shall be conducted in the same manner as a probation violation hearing.

History: Add. 1994, Act 71, Eff. July 1, 1994.

772.14 Forfeiture of recognizance; remission of part of penalty; petition.

Sec. 14. If the court finds by admission or after a hearing that the conditions of the recognizance were violated, the court shall order the recognizance forfeited. The court may also require an additional recognizance with sufficient sureties to secure the peace. If the person fails to recognize, the court shall proceed as set forth in section 6 of this chapter. If a recognizance is forfeited, the court, upon a petition by the person, may remit a portion of the penalty, as the circumstances render just and reasonable.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17401;—CL 1948, 772.14;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 17 of Ch. 162 of R.S. 1846, being CL 1857, § 5975; CL 1871, § 7841; How., § 9451; CL 1897, § 11815; and CL 1915, § 15642.

772.14a Noncompliance with order; contempt; penalty.

Sec. 14a. In addition to forfeiting the bond, a person who is required by an order issued under this chapter to keep the peace toward a spouse, former spouse, person with whom he or she has had a child in common, or person residing or having resided in the same household and who fails to comply with that order, is subject to the contempt powers of the court and may be imprisoned for not more than 90 days or fined not more than

\$500.00, or both.

History: Add. 1978, Act 316, Imd. Eff. July 10, 1978;—Am. 1980, Act 471, Eff. Mar. 31, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

772.15 Surrender of principal by surety.

Sec. 15. A surety in a recognizance to keep the peace has the same authority and right to take and surrender the principal as in other criminal cases. Upon the surrender the surety shall be discharged and exempt from all liability for an act of the principal subsequent to the surrender that would be a breach of the condition of the recognizance. The surety is not discharged or exempt from liability for costs on an appeal taken by the principal in the recognizance. The person surrendered by a surety may recognize anew, with sufficient sureties, before a judge of the same court for the remainder of the term, and, upon doing so, shall be discharged from custody.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17402;—CL 1948, 772.15;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 18 of Ch. 162 of R.S. 1846, being CL 1857, § 5976; CL 1871, § 7842; How., § 9452; CL 1897, § 11816; and CL 1915, § 15643.