

**THE CODE OF CRIMINAL PROCEDURE (EXCERPT)**  
**Act 175 of 1927**  
Chapter XIV  
JURISDICTION AND PROCEDURE OF JUSTICES' COURTS IN CRIMINAL CASES

**774.1 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.**

**Compiler's Notes:** The repealed section pertained to powers and jurisdiction of justice of peace.

**774.1a Arraignment of accused charged with misdemeanor or ordinance violation; reading charge to accused; entering plea in court's minutes.**

Sec. 1a.

At the arraignment of an accused charged with a misdemeanor or an ordinance violation, the magistrate shall read to the accused the charge as stated in the warrant or complaint. The accused shall plead to the charge, and the plea shall be entered in the court's minutes. If the accused refuses to plead, the magistrate shall order that a plea of not guilty be entered on behalf of the accused.

**History:** Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.1b Plea of not guilty or refusal to plead; setting date for trial; right to trial by jury; election.**

Sec. 1b.

If the accused pleads not guilty or refuses to plead to the charge, the magistrate shall set a date for trial. The accused is entitled to trial by jury unless he or she expressly elects to be tried by the court without a jury, as provided in section 3 of chapter 3.

**History:** Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.1c Plea of guilty or nolo contendere; judgment.**

Sec. 1c.

If the accused enters a plea of guilty or nolo contendere, the magistrate shall render judgment on that plea.

**History:** Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.1d Acquittal of accused in misdemeanor or ordinance violation case; discharge; costs.**

Sec. 1d.

If the accused is acquitted in a misdemeanor or ordinance violation case, he or she shall be discharged immediately. If the court, before whom the trial is held, finds and certifies in its minutes that the complaint was

wilful, malicious, and without probable cause, the complainant shall pay all of the costs that accrued to the court, including the witness and jury fees, in the proceedings held upon the complaint.

**History:** Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.1e Refusal by, or neglect of, complainant to pay costs; judgment; execution; disposition of money collected.**

Sec. 1e.

If the complainant refuses or neglects to pay the costs accrued under section 1d of this chapter, the court immediately may enter judgment against the complainant for the amount of those costs and issue execution on that judgment, in the same manner and with the same effect as in case of an execution issued by the circuit court on a judgment in a civil action. Money collected under this section shall be paid to the trial court and shall be applied to the payment of the costs for which the judgment was rendered.

**History:** Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.2 Docket; contents; form; filing.**

Sec. 2.

(1) Each judge of a municipal court shall keep a loose-leaf docket made up of printed docket sheets numbered consecutively by the printer, in which the judge shall enter all completed criminal cases. The docket shall contain the following information:

- (a) Name and address of the defendant.
- (b) Operator or chauffeur license and vehicle registration or vessel number, if available, for motor vehicle or vessel violations.
- (c) Date and place of offense, and offense.
- (d) Date of complaint and name of complainant.
- (e) Date and warrant returned and by whom, or if a voluntary appearance, the date of the voluntary appearance.
- (f) Plea of defendant.
- (g) If trial, the date of the trial and whether the trial was by court or a jury, and the verdict of the court or a jury.
- (h) Sentence of the court and the date of the sentence.
- (i) Date of all adjournments and the date adjourned to.
- (j) Name of the prosecuting attorney or assistant prosecuting attorney, and name of the attorney who appeared for the defendant in the case, if any.
- (k) Names of witnesses sworn for the people and for the defendant.
- (l) If a trial by jury, the names of the jurors.
- (m) Date of appeal and date return was made in circuit court, if any.

(2) Dockets shall be in a form that allows exact carbon copies to be made. A true copy of the docket shall be filed on or before the last day of the month following the month in which the case was completed, with each of the following:

- (a) The prosecuting attorney of the county.
- (b) The board of auditors, or the county board of commissioners if a board of auditors does not exist.
- (c) The secretary of state and the county clerk for all motor vehicle or traffic cases involving moving violations, and the director of the department of natural resources for all violations involving a vessel. The county clerk, secretary of state, and the director of the department of natural resources shall receive copies of dockets only if the defendant was convicted. The copy filed with the county clerk shall be a certificate of conviction, and the copy filed with the secretary of state or the director of the department of natural resources shall be an abstract of the court and record of conviction. The copy for the secretary of state or the director of the department of natural resources need contain only the information required by the secretary of state or the director of the department of natural resources. The form shall be approved by the secretary of state, except that for a violation involving a vessel, the form shall be approved by the director of the department of natural resources.

(3) The copies of the docket shall be filed in all cases regardless of the disposition of the case. If examination is held by the municipal judge instead of a trial, the docket shall also contain information pertaining to whether or not probable cause was found by the municipal judge and the date the return on examination was filed in circuit court. The municipal judge may enter any other information in the docket that the municipal judge considers necessary.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17427 ;-- CL 1948, 774.2 ;-- Am. 1957, Act 274, Eff. Sept. 27, 1957 ;-- Am. 1965, Act 324, Eff. Mar. 31, 1966 ;-- Am. 1967, Act 287, Imd. Eff. Aug. 1, 1967 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 1 of Act 212 of 1879, being How., Â§ 7134; CL 1897, Â§ 1059; and CL 1915, Â§ 15809.

#### **774.2a Docket; cover or binder for docket sheets; alphabetical index; forms and dockets to be furnished by county.**

##### **Sec. 2a.**

(1) A suitable cover or binder shall be used to preserve the docket sheets. There shall not be more than 1,000 loose-leaf docket sheets for each cover or binder.

(2) An alphabetical index containing the names of all defendants and the number of each case as it appears in the docket shall be maintained by each municipal judge.

(3) All forms and dockets necessary for the operation of a municipal court shall be furnished by the county without charge to the court.

**History:** Add. 1957, Act 274, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

#### **774.2b File for criminal case; contents.**

##### **Sec. 2b.**

Each municipal court shall have a file for each criminal case. The file shall be in a suitable envelope, jacket, or folder, and shall contain the complaint, the warrant if returned, and any other papers filed in the case.

**History:** Add. 1957, Act 274, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

#### **774.3 Dockets, files, and indexes as public records; inspection and examination; delivery of completed dockets with indexes to county clerk; destruction of files.**

##### **Sec. 3.**

The dockets, files, and indexes shall be public records and shall be subject to inspection and examination during court hours. If a municipal court does not maintain regular hours, or if the court hours are less than 4 hours during the day, the dockets, files, and indexes shall be available for inspection and examination for at least 4 hours each day, Monday through Friday, except legal holidays. Completed dockets shall be delivered to the county clerk along with the indexes when the municipal judge considers it advisable, but not before 1 year and not later than 4 years after the date of the last case in the docket. Files may be destroyed by the municipal judge, when the judge considers it advisable, at any time after 6 years from the date the case was completed.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17428 ;-- CL 1948, 774.3 ;-- Am. 1957, Act 274, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 2 of Act 212 of 1879, being How., Â§ 7135; CL 1897, Â§ 1060; and CL 1915, Â§ 15810.

#### **774.3a Docket; admissibility as evidence.**

Sec. 3a.

A municipal court docket maintained and filed pursuant to section 2 of this chapter, or a true copy of the docket, shall be admissible as evidence of the facts contained in the docket.

**History:** Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981

#### **774.4-774.8 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.**

**Compiler's Notes:** The repealed sections pertained to complaint, warrant, reading charge to accused, arraignment, and entry of plea.

#### **774.9 Authority of municipal court judge to issue subpoena and administer oaths in misdemeanor and ordinance violation cases.**

Sec. 9.

A judge of a municipal court has the same authority to issue a subpoena to compel the attendance of a witness and to administer oaths in misdemeanor or ordinance violation cases as a district court judge has in misdemeanor or ordinance violation cases which are tried in the district court.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17434 ;-- CL 1948, 774.9 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 24 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3947; CL 1871, Â§ 5548; How., Â§ 7116; CL 1897, Â§ 1042; and CL 1915, Â§ 15792.

#### **774.10 Jurors or witness; failure to appear or refusal to be sworn or to testify; liability.**

Sec. 10.

If a person is summoned to appear before a municipal court pursuant to this chapter as a juror or witness and fails to appear, or if the person appears but refuses to be sworn or to testify, the person shall be liable to the same penalties and may be proceeded against in the same manner as provided by law with respect to jurors and witnesses in civil proceedings in the district court.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17435 ;-- CL 1948, 774.10 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 25 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3948; CL 1871, Â§ 5549; How., Â§ 7117; CL 1897, Â§ 1043; and CL 1915, Â§ 15793.

#### **774.11 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.**

**Compiler's Notes:** The repealed section pertained to bail.

#### **774.12 Summoning jury of 6 persons; method.**

Sec. 12.

After joining the issues, and before the municipal court proceeds to try the case, if the accused has not waived his or her right to a trial by jury, the court shall summon a jury of 6 persons as follows:

(a) If a statute specifies the method of summoning jurors for the municipal court, the court shall comply with the statute.

(b) If another statute does not specify a method of summoning jurors, the court shall comply with sections 13 to 21 of this chapter and shall direct the chief of police or a police officer of the city to make a list in writing of the names of 18 inhabitants of the city, qualified to serve as jurors in the circuit court. From this list the prosecuting attorney and the accused may each strike out 6 names. A police officer shall not make the list if the police officer is the complainant in the case or is in any way interested in the case.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17437 ;-- CL 1948, 774.12 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 8 of Ch. 94 of R.S. 1846, being CL 1857, Å§ 3931; CL 1871, Å§ 5532; How., Å§ 7099; CL 1897, Å§ 1026; CL 1915, Å§ 15776; and Act 155 of 1885.

#### **774.13 Directing disinterested person to strike out names for parties; issuance of venire.**

Sec. 13.

If the prosecuting attorney or the accused neglects to strike out 6 names pursuant to section 12(b) of this chapter, the municipal court shall direct a suitable disinterested person to strike out the names for either or both of the parties. After the names have been stricken, the municipal judge shall issue a venire, directed to a police officer of the city, requiring the officer to summon the 6 persons whose names remain upon the list to appear before the municipal court, at the time and place named in the venire, to make a jury for the trial of the offense.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17438 ;-- CL 1948, 774.13 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 9 of Ch. 94 of R.S. 1846, being CL 1857, Å§ 3932; CL 1871, Å§ 5533; How., Å§ 7100; CL 1897, Å§ 1027; CL 1915, Å§ 15777; and Act 76 of 1861.

#### **774.14 Police officer to summon jurors; list; returning list with venire to court.**

Sec. 14.

The police officer to whom the venire is delivered shall summon the jurors personally, and shall make a list of the persons summoned. The police officer shall certify the list, annex it to the venire, and return the list with the venire to the municipal court within the time specified in the venire.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17439 ;-- CL 1948, 774.14 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 10 of Ch. 94 of R.S. 1846, being CL 1857, Å§ 3933; CL 1871, Å§ 5534; How., Å§ 7101; CL 1897, Å§ 1028; and CL 1915, Å§ 15778.

#### **774.15 Supplying deficiency in number of jurors.**

Sec. 15.

If any of the jurors named in the venire fail to appear in court, or if there is a legal objection to a juror who appears, the municipal court shall supply the deficiency by directing any police officer of the city who is present and disinterested, to summon as a juror any of the bystanders or others who may be competent as jurors and against whom a cause of challenge does not appear.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17440 ;-- CL 1948, 774.15 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 11 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3934; CL 1871, Â§ 5535; How., Â§ 7102; CL 1897, Â§ 1029; and CL 1915, Â§ 15779.

#### **774.16 Former service as juror as cause for challenge.**

Sec. 16.

It is a cause for challenge of a juror in a municipal court, in addition to the other causes of challenge allowed by law, that the person has served as a juror in a municipal court 2 times within the 1-year period immediately preceding the challenge.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17441 ;-- CL 1948, 774.16 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 4 of Act 129 of 1867, being CL 1871, Â§ 6046; How., Â§ 7584a; CL 1897, Â§ 349; CL 1915, Â§ 14593; Act 62 of 1869; and Act 316 of 1907.

#### **774.17 Peremptory challenges.**

Sec. 17.

In a misdemeanor or ordinance violation case in the municipal court, the prosecuting attorney may challenge 5 jurors peremptorily and the defendant may challenge 5 jurors peremptorily. In addition, the prosecuting attorney and the defendant may challenge 5 talesmen peremptorily.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17442 ;-- CL 1948, 774.17 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 58 of Ch. 103 of R.S. 1846, being CL 1857, Â§ 4400; CL 1871, Â§ 6027; How., Â§ 7607; CL 1897, Â§ 10238; CL 1915, Â§ 14594; Sec. 4 of Ch. 165 of R.S. 1846, being CL 1857, Â§ 6071; CL 1871, Â§ 7950; How., Â§ 9562; CL 1897, Â§ 11945; CL 1915, Â§ 15818; and Act 104 of 1885, being How., Â§ 6937a; CL 1897, Â§ 820; CL 1915, Â§ 14595.

#### **774.18 New jury; continuation of proceedings; consent to trial by court.**

Sec. 18.

If the police officer to whom the venire is delivered fails to return the venire as required, or if the jury fails to agree and is discharged by the municipal court, a new jury shall be selected and summoned in the same manner and the proceedings shall be continued as prescribed in sections 12 to 17 of this chapter, unless the accused consents to be tried by the court. If the accused consents to a trial by the court, the municipal court shall proceed to the trial of the issue as if a jury had not been demanded.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17443 ;-- CL 1948, 774.18 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 12 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3935; CL 1871, Â§ 5536; How., Â§ 7103; CL 1897, Â§ 1030; and CL 1915, Â§ 15780.

**774.19 Oath or affirmation to be administered jurors in misdemeanor or ordinance violation case.**

Sec. 19.

The municipal judge shall administer substantially the following oath or affirmation to the jurors in a misdemeanor or ordinance violation case tried in a municipal court: "You do solemnly swear, (or, "You do solemnly and sincerely declare and affirm,") that you will well and truly try this case between the people of the state of Michigan and ..... , the accused, and give a true verdict according to law and the evidence given you in court, unless discharged by the court, so help you God."

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17444 ;-- CL 1948, 774.19 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 13 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3936; CL 1871, Â§ 5537; How., Â§ 7104; CL 1897, Â§ 1031; and CL 1915, Â§ 15781.

**774.20 Jurors; sitting together and hearing proofs and allegations; agreement on verdict or discharge; officer to take charge of jury.**

Sec. 20.

After the jury is sworn, the jurors shall sit together and hear the proofs and allegations in the case, which shall be delivered in public and in the presence of the accused. After hearing the proofs and allegations, the jury shall be kept together in some convenient place, until they agree on a verdict or are discharged by the municipal court. An officer of the court shall be sworn to take charge of the jury, in the same manner as in a trial in a municipal court in a civil proceeding.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17445 ;-- CL 1948, 774.20 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 14 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3937; CL 1871, Â§ 5538; How., Â§ 7105; CL 1897, Â§ 1032; and CL 1915, Â§ 15782.

**774.21 Jurors; delivery of verdict; fees; certificate.**

Sec. 21.

When the jurors have agreed on their verdict they shall deliver the verdict publicly to the municipal court, which shall enter the verdict in the minutes of its proceedings. The jurors shall each be entitled to the same fees as provided by law for jurors sworn in civil cases in a municipal court. In a misdemeanor case, a certificate of service and fees from the municipal judge in whose court the jurors served, countersigned by the prosecuting attorney of the county, and given to each juror, shall authorize the county clerk of the county to draw an order upon the county treasurer for the payment of the fees of each juror. The fees shall be paid in the same manner as jurors' fees are paid in the circuit court.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17446 ;-- CL 1948, 774.21 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 15 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3938; CL 1871, Â§ 5539; How., Â§ 7106; CL 1897, Â§ 1033; CL 1915, Â§ 15783; Act 169 of 1877; and Act 183 of 1887.

**774.22 Judgment and sentence; costs and expenses; punishment.**

Sec. 22.

If the accused is tried and found guilty in a municipal court, either by the court or by a jury, or is convicted upon

a plea of guilty, the court shall render judgment and sentence the accused, either by a fine, imprisonment, or both, as the case may require. The court also may order the accused to pay the costs of prosecution and other reasonable costs and expenses, direct and indirect, as the public has been put to in connection with the offense, not to exceed \$15.00 in a criminal case. The punishment provided for by the sentence shall not exceed the limit fixed by law for the offense charged.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17447 ;-- Am. 1941, Act 335, Eff. Jan. 10, 1942 ;-- CL 1948, 774.22 ;-- Am. 1958, Act 143, Eff. Sept. 13, 1958 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 16 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3939; CL 1871, Â§ 5540; How., Â§ 7107; CL 1897, Â§ 1034; CL 1915, Â§ 15784; Act 76 of 1861; and Act 6 of 1881.

#### **774.22a, 774.22b Repealed. 1990, Act 219, Imd. Eff. Oct. 8, 1990.**

**Compiler's Notes:** The repealed sections pertained to disorderly conduct involving sex offenses and to sex degenerates in jails or penal institutions.

#### **774.22c Psychiatrists and expenses of confinement; reference.**

Sec. 22c.

The provisions of sections 1-c and 1-d of chapter 9, relative to psychiatrists and expenses of confinement shall be applicable to proceedings taken under this chapter.

**History:** Add. 1937, Act 196, Imd. Eff. July 14, 1937 ;-- CL 1948, 774.22c

**Compiler's Notes:** For provisions of sections 1c and 1d of chapter 9, referred to in this section, see MCL 769.1c and 769.1d.

#### **774.23-774.25 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.**

**Compiler's Notes:** The repealed sections pertained to acquittal, payment of costs, and execution of judgment.

#### **774.26 Fines and costs.**

Sec. 26.

All fines and costs imposed by a municipal court, for a violation of state law shall be received by the court and paid over to the county treasurer on or before the last day of the month following receipt of the fine or costs. The county treasurer shall reimburse the municipal court for the court's lawful fees within 15 days after auditing pursuant to law, and the fines shall be distributed as prescribed by law.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17451 ;-- Am. 1937, Act 168, Eff. Oct. 29, 1937 ;-- CL 1948, 774.26 ;-- Am. 1954, Act 79, Eff. Aug. 13, 1954 ;-- Am. 1957, Act 266, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 21 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3944; CL 1871, Â§ 5545; How., Â§ 7112; CL 1897, Â§ 1039; and CL 1915, Â§ 15789.



**774.26a Blank forms for recording information concerning money received in criminal case; approval; completion.**

Sec. 26a.

(1) The county treasurer shall provide a municipal court within the county with blank forms which have been approved by the state treasurer. The forms shall provide space for recording the following information with respect to all sums of money which the municipal court receives in a criminal case on account of any forfeiture of bail, bond, recognizance, fine, penalty, or taxation of costs:

- (a) Receipt number.
- (b) Docket number.
- (c) Nature of offense.
- (d) Amount of the fine.
- (e) Amount of statutory court fees.
- (f) Officers' fees.
- (g) Other receipts, including a forfeited bond.
- (h) Total receipts.
- (i) Disposition of the case.
- (j) Name of defendant.
- (k) The name of the municipal judge.
- (l) The name of the city.

(2) Each municipal judge shall complete the forms and shall furnish 1 copy to the county treasurer, and 1 copy either to the county clerk or to the controller or board of auditors, in counties having a controller or board of auditors, and shall retain 1 completed form for the municipal court files.

**History:** Add. 1957, Act 266, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 2002, Act 88, Imd. Eff. Mar. 26, 2002

**774.26b Blank receipt forms; use; copies.**

Sec. 26b.

(1) The county treasurer shall provide to each municipal court blank serially numbered receipt forms in triplicate, to be used if the court receives any money on account of a cash bail, bond, fine, penalty, or taxation of costs. The receipt forms shall provide space for recording the following information:

- (a) The name of the defendant and payor.
- (b) The name of the municipal judge.
- (c) The docket number.
- (d) The date.
- (e) The amount of a fine received.
- (f) The amount of costs received.
- (g) Amount and nature of any other sum received.
- (h) The total amount received.

(2) One copy of the receipt form shall be for the payor, 1 for the court, and 1 for the county treasurer.

**History:** Add. 1957, Act 266, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.26c Account in financial institution for money received in criminal cases; deposits and withdrawals; secured deposits; limitation on acceptable assets; "financial institution" defined.**

Sec. 26c.

(1) Each municipal court shall maintain a separate account in a financial institution for money received in criminal

cases. All money received in criminal cases shall be deposited in the account daily if the receipts exceed \$500.00, or whenever the receipts exceed \$500.00.

(2) Withdrawals from the account shall be made only by check and only for the purposes of making a deposit with the county treasurer, making refunds or transfers of cash bail bonds, making payments for restitution, or making refunds to defendants in case of an error.

(3) Assets acceptable for pledging to secure deposits of municipal court funds are limited to any of the following:

(a) Assets considered acceptable to the state treasurer under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state surplus funds.

(b) Any of the following:

(i) Securities issued by the federal home loan mortgage corporation.

(ii) Securities issued by the federal national mortgage association.

(iii) Securities issued by the government national mortgage association.

(c) Other securities considered acceptable to the municipal court and the financial institution.

(4) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States.

**History:** Add. 1957, Act 266, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 1997, Act 39, Imd. Eff. June 30, 1997

#### **774.26d Noncompliance as misdemeanor.**

Sec. 26d.

A person who fails to comply with sections 26, 26a, 26b, or 26c of this chapter is guilty of a misdemeanor.

**History:** Add. 1957, Act 266, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

#### **774.27 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.**

**Compiler's Notes:** The repealed section pertained to payments of fines and costs.

#### **774.28 Neglecting to pay fine or costs; action by county treasurer; neglecting to pay over fine to county treasurer as misdemeanor; punishment; judge to keep exact record of proceedings; liability.**

Sec. 28.

(1) If a person who has received a fine or costs or any part of a fine or costs, neglects to pay the money pursuant to section 22 or 26 of this chapter, the county treasurer immediately shall commence an action for the unpaid amount, in the name of the people of this state, and shall prosecute the case diligently to effect.

(2) A person who neglects to pay over a fine to the county treasurer within 60 days after receiving the fine, is guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 nor more than \$100.00, or imprisonment for not less than 30 nor more than 90 days, or both.

(3) Each municipal judge shall keep an exact record of all proceedings held before the judge. If the municipal judge does not maintain the record required by this subsection, the judge shall be liable for the penalties prescribed in subsection (2).

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17453 ;-- CL 1948, 774.28 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 23 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3946; CL 1871, Â§ 5547; How., Â§ 7114; CL 1897, Â§ 1041; CL 1915, Â§ 15791; and Act 76 of 1869.

**774.29, 774.30 Repealed. 1957, Act 274, Eff. Sept. 27, 1957.**

**Compiler's Notes:** The repealed sections provided for certificate of conviction and its contents, and for filing thereof in office of clerk of county in which conviction occurred within 20 days after conviction.

**774.31 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.**

**Compiler's Notes:** The repealed section pertained to certificate of conviction as evidence.

**774.32, 774.33 Repealed. 1957, Act 274, Eff. Sept. 27, 1957.**

**Compiler's Notes:** The repealed sections provided for report to prosecuting attorney within ten days after final disposition of case to which state had been a party or wherein county might be liable and set penalty for failure of justice of peace to report within 20 days.

**774.34 Appeal to circuit court; practice and procedure.**

Sec. 34.

(1) A defendant who is convicted of a misdemeanor or ordinance violation in a municipal court in a city that does not adopt a resolution of approval under section 23a of the Michigan municipal court act, 1956 PA 5, MCL 730.523, may appeal to the circuit court for a trial de novo even if the sentence has been suspended or the fine or costs, or both, have been paid.

(2) To appeal by right, the defendant shall file a claim of appeal with the circuit court clerk within 20 days after the entry of judgment. A copy of the claim of appeal shall be filed with the municipal court. All applicable fees required by sections 2529 and 6536 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2529 and 600.6536, shall be paid when filing the claim of appeal. The defendant shall also enter into a recognizance to the people of the state in a sum not less than \$50.00 nor more than \$500.00 within 20 days after the entry of the judgment, conditioned upon the defendant prosecuting the appeal to effect and abiding by the orders and judgment of the court. If the defendant enters into a recognizance, the municipal judge from whose judgment the appeal is taken shall discharge the defendant or order the defendant's discharge, shall make a special return of the proceedings held before the judge, and shall file the complaint, warrant, and the return together with the recognizance with the circuit court.

(3) The practice and procedure for appeals from a municipal court shall be as provided by supreme court rule.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17459 ;-- CL 1948, 774.34 ;-- Am. 1958, Act 32, Eff. Sept. 13, 1958 ;-- Am. 1959, Act 212, Eff. Mar. 19, 1960 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 1998, Act 407, Eff. Jan. 1, 1999

**Former Law:** See section 18 of Ch. 94 of R.S. 1846, being CL 1857, Â§ 3941; CL 1871, Â§ 5542; How., Â§ 7109; CL 1897, Â§ 1036; CL 1915, Â§ 15786; Act 6 of 1848; Act 258 of 1849; Act 154 of 1855; Act 76 of 1861; and Act 23 of 1909.

**774.35-774.41 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.**

**Compiler's Notes:** The repealed sections pertained to writ of certiorari.

**774.42 Circuit court; continuing recognizance or requiring new recognizance; default.**

Sec. 42.

The circuit court for the county in which the defendant filed an appeal from a municipal court judgment pursuant to section 34 of this chapter, may continue the recognizance entered under section 34 of this chapter or require a new recognizance with further or other security until a decision is rendered in the case. If a defendant defaults on the recognizance, the court may commit the defendant to jail.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17467 ;-- CL 1948, 774.42 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**Former Law:** See section 8 of Act 258 of 1849, being CL 1857, Â§ 3959; CL 1871, Â§ 5560; How., Â§ 7128; CL 1897, Â§ 1054; and CL 1915, Â§ 15804.

**774.43 Circuit court; discharge of defendant if found not guilty; entering judgment, sentence, and imposing costs if defendant convicted on appeal; remanding defendant back to county jail; credit for fine paid.**

Sec. 43.

If the defendant who appeals a conviction in municipal court in a city that does not adopt a resolution of approval under section 23a of the Michigan municipal court act, 1956 PA 5, MCL 730.523, is found not guilty on appeal in circuit court, the circuit court shall discharge the defendant. If the defendant is convicted on appeal to circuit court, the circuit court has the authority to enter judgment, sentence, and impose costs as provided in section 22 of this chapter. If the defendant was released on recognizance as provided in section 34 or 42 of this chapter and is sentenced to jail by the circuit court, the defendant shall be remanded back to the county jail for the length of time determined by the circuit court, less any time served under the sentence imposed by the municipal court and less any time spent in jail awaiting trial. The defendant shall also be given credit for any fine paid under the sentence of the municipal court against any fine imposed by the circuit court on appeal.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17468 ;-- CL 1948, 774.43 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 1998, Act 407, Eff. Jan. 1, 1999

**Former Law:** See section 9 of Act 258 of 1849, being CL 1857, Â§ 3960; CL 1871, Â§ 5561; How., Â§ 7129; CL 1897, Â§ 1055; and CL 1915, Â§ 15805.

**774.44 Withdrawal or dismissal of appeal; order revoking recognizance and directing sentence be carried out.**

Sec. 44.

If a defendant takes an appeal from a municipal court in a city that does not adopt a resolution of approval under section 23a of the Michigan municipal court act, 1956 PA 5, MCL 730.523, and withdraws the appeal, or if the circuit court dismisses the appeal leaving the municipal court conviction in effect, the circuit court may enter an order revoking a recognizance and may also direct that the sentence of the municipal court be carried out.

**History:** 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17469 ;-- CL 1948, 774.44 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981 ;-- Am. 1998, Act 407, Eff. Jan. 1, 1999

**Former Law:** See section 10 of Act 258 of 1849, being CL 1857, Â§ 3961; CL 1871, Â§ 5562; How., Â§ 7130; CL 1897, Â§ 1056; and CL 1915, Â§ 15806.

**774.45 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.**

**Compiler's Notes:** The repealed section pertained to fee for making return to writ of certiorari.

**774.46 Issuing writs and process; construction.**

Sec. 46.

(1) Municipal judges may issue the writs and process considered necessary in criminal and ordinance violation cases to carry into effect the judge's orders and sentences.

(2) This section shall not be construed to eliminate the requirements of section 1 of chapter 4 regarding the approval of the prosecuting attorney prior to the issuance of a warrant in a criminal case.

**History:** Add. 1941, Act 199, Eff. Jan. 10, 1942 ;-- CL 1948, 774.46 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.47 Municipal court having more than 1 judge; powers of any judge in connection with trial and disposition of case.**

Sec. 47.

In a municipal court having more than 1 judge, whenever a warrant is issued for the arrest of a person charged with an offense against the laws of this state, or for the violation of a city ordinance, any judge of that municipal court may arraign, set bail, adjourn, try, take testimony in, conduct a preliminary examination, dismiss, hold for trial in circuit court, and do any other act in connection with the trial and disposition of the case brought before the municipal court.

**History:** Add. 1941, Act 264, Eff. Jan. 10, 1942 ;-- CL 1948, 774.47 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.48 Delivery of files, indexes, and dockets to successor of municipal judge; audit of judge's records; audit report; certificate; effectiveness.**

Sec. 48.

(1) Each municipal judge shall deliver to his or her successor in office all files, indexes, and dockets. Upon the death of a municipal judge, or if for any other reason the office becomes vacant, and also at the end of each term, the board of auditors of the county or the county board of commissioners shall cause the records of the municipal court judge to be audited immediately. The audit shall be completed within 30 days from the date of the vacancy or end of the term. If a municipal court judge has been reelected to office, the audit shall be completed within 6 months from the date of the expiration of the judge's previous term.

(2) The audit report shall set forth the amount due the municipal court and the amount due the county for fines and costs collected by the court. The board of auditors or county board of commissioners shall issue to the municipal judge or the executor or administrator of the judge's estate, a certificate stating that all amounts required to be paid to the county during the judge's term of office have been paid, if the audit determines that all amounts required to be paid have in fact been paid. This certificate shall not be effective if it is later determined that there was fraud, embezzlement, or other criminal concealment or acts involved in the funds collected by the municipal judge.

**History:** Add. 1957, Act 274, Eff. Sept. 27, 1957 ;-- Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981

**774.49 Municipal court to be governed by statutes and supreme court rules applicable to district court; exceptions.**

Sec. 49.

(1) In all matters of substance, authority, and jurisdiction with regard to a felony, misdemeanor, or ordinance violation case, a municipal court shall be governed by the statutes applicable to the district court, except to the extent that those provisions conflict with a statute which is specifically applicable to the particular municipal court or to municipal courts in general.

(2) In all matters of practice and procedure in the exercise of jurisdiction in a felony, misdemeanor, or ordinance violation case, a municipal court shall be governed by the statutes and supreme court rules applicable to the district court, except to the extent that those provisions conflict with a statute or supreme court rule specifically applicable to the particular municipal court or to municipal courts in general.

**History:** Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981