

CHAPTER 68

IMPEACHMENT

Referred to in §602.2201

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68.1 Impeachment defined.

An impeachment is a written accusation against the governor, or a judicial officer, or other state officer, by the house of representatives before the senate, of a misdemeanor or malfeasance in office.

[R60, §4937; C73, §4546; C97, §5469; C24, 27, 31, 35, 39, §1131; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.1]

83 Acts, ch 186, §10033, 10201

68.2 Specification of charges — majority must concur.

An impeachment must specify the offenses charged as in an indictment. If more than one misdemeanor or malfeasance is charged, each shall be stated separately and distinctly. A majority of all the members of the house of representatives elected must concur in the impeachment.

[C51, §3157, 3158; R60, §4938 – 4940; C73, §4547 – 4549; C97, §5470; C24, 27, 31, 35, 39, §1132; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.2]

68.3 Board of managers — articles.

When an impeachment is concurred in, the house of representatives shall elect from its own body seven members whose duty it shall be to prosecute the same, and, as a board of managers, they shall be authorized to exhibit and present articles of impeachment in accordance with the resolutions of the house previously adopted.

[C97, §5471; C24, 27, 31, 35, 39, §1133; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.3]

68.4 Notice to governor.

When an impeachment is concurred in, the clerk of the house of representatives must forthwith in writing notify the governor thereof.

[C97, §5472; C24, 27, 31, 35, 39, §1134; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.4]

68.5 Officer suspended — temporary appointment.

Every officer impeached shall be suspended by the governor from the exercise of the officer's official duties until the officer's acquittal, and the governor shall forthwith appoint some suitable person to temporarily fill the office, and that person, having qualified as required by law, shall perform all the duties and enjoy all the rights pertaining to the office until the removal of the suspension of the person's predecessor or the election of a successor.

[C51, §3165; R60, §4948; C73, §4554; C97, §5473; C24, 27, 31, 35, 39, §1135; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.5]

[P] Qualification by temporary officer, §63.9, 67.8

68.6 President of senate — notice to senate.

If the president of the senate is impeached, notice thereof must be immediately given to the senate, which shall thereupon choose another president, to hold office until the result of the trial is determined.

[C51, §3167; R60, §4949; C73, §4555; C97, §5474; C24, 27, 31, 35, 39, §1136; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.6]

68.7 Warrant of arrest.

When presented with an impeachment, the senate must forthwith cause the person accused to be arrested and brought before it. The warrant of arrest or other process shall be issued by the secretary of the senate, signed by the secretary, and may be served by any person authorized by the senate or president.

[C51, §3159, 3160; R60, §4941, 4942; C73, §4550, 4551; C97, §5475; C24, 27, 31, 35, 39, §1137; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.7]

[P] Approval of warrant and expenses, §70A.12, 70A.13

68.8 Appearance — answer — counsel.

Upon the appearance of the person impeached, the person is entitled to a copy of the impeachment, and to a reasonable time in which to answer the same, and shall be allowed counsel as in an ordinary criminal prosecution.

[C51, §3161; R60, §4943; C73, §4552; C97, §5476; C24, 27, 31, 35, 39, §1138; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.8]

[P] Right to counsel, R.Cr.P. 2.8

68.9 Organization of court.

When an impeachment is presented, the senate shall, after the hour of final adjournment of the legislature, be forthwith organized as a court of impeachment for the trial thereof, at the capitol.

An oath or affirmation shall be administered by the secretary of the senate to its president, and by the president to each member of that body, to the effect that the member will truly and impartially try and determine the charges of impeachment according to the law and evidence.

No member shall sit on the trial or give evidence thereon until the member has taken such oath or affirmation.

The organization of such court shall be perfected when such presiding officer and the members present, but not less than a majority of the whole number, have taken and subscribed the oath or affirmation.

[C51, §3162; R60, §4944; C73, §4553; C97, §5477; C24, 27, 31, 35, 39, §1139; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.9]

68.10 Powers of court.

The court of impeachment shall sit in the senate chamber, and have power:

1. To compel the attendance of its members as the senate may do when engaged in the ordinary business of legislation.

2. To establish rules necessary for the trial of the accused.

3. To appoint from time to time such subordinate officers, clerks, and reporters as are necessary for the convenient transaction of its business, and at any time to remove any of them.

4. To issue subpoenas, process, and orders, which shall run into any part of the state, and may be served by any adult person authorized so to do by the president of the senate, or by the sheriff of any county, or the sheriff's deputy, in the name of the state, and with the same force and effect as in an ordinary criminal prosecution, and to compel obedience thereto.

5. To exercise the powers and privileges conferred upon the senate for punishment as for contempts in chapter 2.

6. To adjourn from time to time, and to dissolve when its work is completed.

[C97, §5478; C24, 27, 31, 35, 39, §1140; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.10] 99 Acts, ch 96, §6

[P] Contempts, §2.18 – 2.22, chapter 665

68.11 Record of proceedings — administering oaths.

The secretary of the senate, in all cases of impeachment, shall keep a full and accurate record of the proceedings, which shall be a public record; and shall have power to administer all requisite oaths or affirmations, and issue subpoenas for witnesses.

[R60, §4959; C73, §4570; C97, §5479; C24, 27, 31, 35, 39, §1141; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.11]

68.12 Process for witnesses.

The board of managers and counsel for the person impeached shall each be entitled to process for compelling the attendance of persons or the production of papers and records required in the trial of the impeachment.

[C97, §5480; C24, 27, 31, 35, 39, §1142; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.12]

68.13 Punishment.

When any person impeached is found guilty, judgment shall be rendered for removal from office and disqualification to hold any office of honor, trust, or profit under the state.

[C97, §5481; C24, 27, 31, 35, 39, §1143; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.13]

68.14 Compensation — fees — payment.

The presiding officer and members of the senate, while sitting as a court of impeachment, and the managers elected by the house of representatives, shall receive the sum of six dollars each per day, and shall be reimbursed for mileage expense in going from and returning to their places of residence by the ordinary traveled routes; the secretary, sergeant at arms, and all subordinate officers, clerks, and reporters, shall receive such amount as shall be determined upon by a majority vote of the members of such court. The same fees shall be allowed to witnesses, to officers, and to other persons serving process or orders, as are allowed for like services in criminal cases, but no fees can be demanded in advance. The state treasurer shall, upon the presentation of certificates signed by the presiding officer and secretary of the senate, pay all of the foregoing compensations and the expenses of the senate incurred under the provisions of this chapter.

[C97, §5482; C24, 27, 31, 35, 39, §1144; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §68.14]

[P] Payment for use of automobile, see §70A.9

[P] Sheriff's fees, §331.655(1)

[P] Witness fees, §622.69 – 622.75

[P] Witnesses in criminal cases, R.Cr.P. 2.20