

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 40
IMPEACHMENTS

19-4001. OFFICERS SUBJECT TO IMPEACHMENT. Any state officer, created by state law, shall be liable to impeachment for any misdemeanor in office.

[(19-4001) Cr. Prac. 1864, sec. 49, p. 219; R.S., R.C., & C.L., sec. 7425; C.S., sec. 8654; I.C.A., sec. 19-4101.]

19-4002. ARTICLES OF IMPEACHMENT -- PREPARATION AND TRIAL. All impeachments must be by resolution adopted and originated in the house of representatives, and conducted by managers elected by the house, who must prepare articles of impeachment, present them at the bar of the senate, and prosecute the same. The trial must be had before the senate, sitting as a court of impeachment.

[(19-4002) Cr. Prac. 1864, sec. 50, p. 219; R.S., R.C., & C.L., sec. 7426; C.S., sec. 8655; I.C.A., sec. 19-4102.]

19-4003. DELIVERY OF ARTICLES TO PRESIDENT OF SENATE. When an officer is impeached by the house of representatives for a misdemeanor in office, the articles of impeachment must be delivered to the president of the senate.

[(19-4003) Cr. Prac. 1864, sec. 51, p. 219; R.S., R.C., & C.L., sec. 7427; C.S., sec. 8656; I.C.A., sec. 19-4103.]

19-4004. TIME AND NOTICE OF HEARING. The senate must assign a day for the hearing of the impeachment and inform the house of representatives thereof. The president of the senate must cause a copy of the articles of impeachment, with a notice to appear and answer the same at the time and place appointed, to be served on the defendant not less than ten (10) days before the day fixed for the hearing.

[(19-4004) Cr. Prac. 1864, sec. 52, p. 219; R.S., R.C., & C.L., sec. 7428; C.S., sec. 8657; I.C.A., sec. 19-4104.]

19-4005. SERVICE OF NOTICE. The service must be made upon the defendant personally, or if he cannot, upon diligent inquiry, be found within the state, the senate, upon proof of that fact, may order publication to be made, in such manner as it may deem proper, of a notice requiring him to appear at a specified time and place, and answer the articles of impeachment.

[(19-4005) Cr. Prac. 1864, sec. 53, p. 219; R.S., R.C., & C.L., sec. 7429; C.S., sec. 8656; I.C.A., sec. 19-4105.]

19-4006. FAILURE OF DEFENDANT TO APPEAR. If the defendant does not appear, the senate, upon proof of service or publication, as provided in the last two (2) sections, may, of its own motion or for cause shown, assign another day for hearing the impeachment, or may proceed in the absence of the defendant to trial and judgment.

[(19-4006) Cr. Prac. 1864, sec. 54, p. 220; R.S., R.C., & C.L., sec. 7430; C.S., sec. 8659; I.C.A., sec. 19-4106.]

19-4007. ANSWER OR DEMURRER. When the defendant appears he may, in writing, object to the sufficiency of the articles of impeachment, or he may answer the same by an oral plea of not guilty, which plea must be entered upon the journal, and puts in issue every material allegation of the articles of impeachment.

[(19-4007) Cr. Prac. 1864, secs. 55, 56, p. 220; R.S., R.C., & C.L., sec. 7431; C.S., sec. 8660; I.C.A., sec. 19-4107.]

19-4008. OVERRULING DEMURRER -- PLEA AND TRIAL. If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the senate who heard the argument, the defendant must be ordered forthwith to answer the articles of impeachment. If he then pleads guilty, or refuses to plead, the senate must render judgment of conviction against him. If he pleads not guilty, the senate must at such time as it may appoint, proceed to try the impeachment.

[(19-4008) Cr. Prac. 1864, sec. 57, p. 220; R.S., R.C., & C.L., sec. 7432; C.S., sec. 8661; I.C.A., sec. 19-4108.]

19-4009. SENATE TO BE SWORN. At the time and place appointed and before the senate proceeds to act on the impeachment, the secretary must administer to the president of the senate, and the president of the senate to each of the members of the senate then present, an oath truly and impartially to hear, try, and determine the impeachment; and no member of the senate can act or vote upon the impeachment or upon any question arising thereon without having taken such oath.

[(19-4009) Cr. Prac. 1864, sec. 58, p. 220; R.S., R.C., & C.L., sec. 7433; C.S., sec. 8662; I.C.A., sec. 19-4109.]

19-4010. VOTE NECESSARY FOR CONVICTION. The defendant cannot be convicted on an impeachment without the concurrence of two-thirds (2/3) of the members elected, voting by ayes and noes, and if two-thirds (2/3) of the members elected do not concur in a conviction, he must be acquitted.

[(19-4010) Cr. Prac. 1864, sec. 60, p. 220; R.S., sec. 7434; am. R.C., & C.L., sec. 7434; C.S., sec. 8663; I.C.A., sec. 19-4110.]

19-4011. JUDGMENT OF CONVICTION. After conviction the senate must, at such time as it may appoint, pronounce judgment in the form of a resolution, entered upon the journals of the senate.

[(19-4011) Cr. Prac. 1864, sec. 61, p. 220; R.S., R.C., & C.L., sec. 7435; C.S., sec. 8664; I.C.A., sec. 19-4111.]

19-4012. ADOPTION OF JUDGMENT. On the adoption of the resolution by a majority of the members present who voted on the question of acquittal or conviction, it becomes the judgment of the senate.

[(19-4012) Cr. Prac. 1864, sec. 62, p. 221; R.S., R.C., & C.L., sec. 7436; C.S., sec. 8665; I.C.A., sec. 19-4112.]

19-4013. EXTENT OF JUDGMENT. The judgment may be that the defendant be suspended and removed from office, or that he be removed from office and disqualified to hold and enjoy a particular office, or class of offices, or any office in this state.

[(19-4013) Cr. Prac. 1864, sec. 63, p. 221; R.S., R.C., & C.L., sec. 7437; C.S., sec. 8666; I.C.A., sec. 19-4113.]

19-4014. JUDGMENT OF SUSPENSION. If judgment of suspension is given, the defendant, during the continuance thereof, is disqualified from receiving the salary, fees, or emoluments of the office.

[(19-4014) Cr. Prac. 1864, sec. 64, p. 221; R.S., R.C., & C.L., sec. 7438; C.S., sec. 8667; I.C.A., sec. 19-4114.]

19-4015. SUSPENSION PENDING TRIAL. Whenever articles of impeachment against any officer subject to impeachment are presented to the senate, such officer is temporarily suspended from his office, and cannot act in his official capacity until he is acquitted. Upon such suspension of any state officer, his office must at once be temporarily filled by an appointment made by the governor, with the advice and consent of the senate, until the acquittal of the party impeached; or, in case of his removal, until the vacancy is filled as required by law.

[(19-4015) Cr. Prac. 1864, sec. 65, p. 221; R.S., R.C., & C.L., sec. 7439; C.S., sec. 8668; I.C.A., sec. 19-4115.]

19-4016. IMPEACHMENT NOT A BAR TO INDICTMENT. If the offense for which the defendant is convicted on impeachment is also the subject of an indictment, the indictment is not barred thereby.

[(19-4016) Cr. Prac. 1864, sec. 66, p. 221; R.S., R.C., & C.L., sec. 7440; C.S., sec. 8669; I.C.A., sec. 19-4116.]