

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

**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.