

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

767.5 Proceedings before trial; failure of witnesses to appear or answer questions; hearing, penalty; commutation or suspension of sentence.

Sec. 5.

Any witness neglecting or refusing to appear in response to such summons or to answer any questions which such judge may require as material to such inquiry, shall be deemed guilty of a contempt and after a public hearing in open court and conviction of such contempt, shall be punished by a fine not exceeding \$1,000.00 or imprisonment in the county jail not exceeding 1 year or both at the discretion of the court: Provided, That if such witness after being so sentenced shall offer to appear before such judge to purge himself of such contempt, the judge shall cause such witness to be brought before him and, after examination of such witness, the judge may in his discretion commute or suspend the further execution of such sentence.

History: 1927, Act 175, Eff. Sept. 5, 1927 ;-- CL 1929, 17219 ;-- CL 1948, 767.5 ;-- Am. 1949, Act 311, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 276, Eff. Sept. 28, 1951

Constitutionality: This section, in regard to a contemnor appearing before a judge to purge himself and the discretion of the judge to commute or suspend further execution of a sentence, insofar as criminal contempt is concerned, constitutes an unconstitutional delegation by the legislature to the judicial branch of government of a power which exists only in the executive. *People v Joseph*, 384 Mich 24; 179 NW2d 383 (1970).

Former Law: See section 3 of Act 196 of 1917.