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INFORMATION

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CHAPTER 153.

[H. B. No. 102—Norheim]

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PROSECUTION ON INFORMATION.

AN ACT to Amend Section 9791 of the Revised Codes of 1905, Relating to Prosecution on Information in What Cases.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. That section 9791 of the revised codes of 1905 be amended to read as follows:

§ 9791. PROSECUTION ON INFORMATION. IN WHAT CASES.] During each term of the district court held in and for any county or judicial subdivision in this state at which a grand jury has not been summoned and empaneled, the state's attorney of the county or judicial subdivision, or other person appointed by the court, as provided by law, to prosecute a criminal action, shall file an information or informations as the circumstances may require, respectively, against all persons accused of having committed a crime or public offense within such county or judicial subdivision or triable therein:

1. When such person or persons have had a preliminary examination before a magistrate for such crime or public offense and, from the evidence taken thereat, the magistrate has ordered that said person or persons be held to answer to the offense charged or some other crime or public offense disclosed by the evidence.

2. When the crime or public offense is committed during the continuance of the term of the district court in and for the county or judicial subdivision in which the offense is committed or triable.

3. When a person accused of a crime or public offense is arrested and waives, in writing, or if before a magistrate, orally, a preliminary examination therefor.

4. When a person accused of a misdemeanor not within the jurisdiction of the magistrate to try and punish, has been arrested and admitted to bail at a place other than the county or judicial subdivision in which said offense is triable; or

5. At any time, when the person accused of a crime or public offense is a fugitive from justice and such information may be needed by the governor of this state to demand such person from the executive authority of any other state or territory within the United States, or to aid the proper executive authority of

the United States to demand such person of any foreign government.

6. Whenever any state's attorney shall present to the district judge his statement in writing, duly verified, that an accused held for trial after preliminary examination or waiver thereof desires to forthwith enter a plea of guilty said statement when accompanied by a written confession of guilt of the person so accused of said crime, duly signed by such person so accused, shall be sufficient upon which such district judge in his discretion may order the state's attorney of the county wherein said defendant is held for trial to forthwith file a criminal information against such person with the clerk of the district court of such county; and such clerk when such information is presented may file the same and such information when so presented and filed shall be as valid as though the same was filed in open court during a term of court for said county duly called and convened; provided, that after the filing of said information by such clerk the defendant and state's attorney may appear with such clerk in district court chambers before the judge anywhere within the judicial district of which such county in which such information is filed is a part, and said district judge may thereupon arraign said defendant and receive defendant's plea of guilty and pronounce final judgment and sentence thereon with the same force and effect as though the same were done in open court in the county in which such information was so filed with such clerk. And such clerk shall keep his minutes and records and enter judgment and sentence in the records of his office as otherwise provided by law.

Provided further, that if upon such arraignment without the county in which the information is filed the accused shall not enter a plea of guilty or shall not desire to do so the defendant may be tried thereafter upon said information so filed or another information filed in term time as the state's attorney may elect.

§ 2. EMERGENCY.] Whereas, the present laws of this state relating to prosecution on information does not provide for a plea of guilty being entered by a defendant in a criminal action except in open court in the county in which the crime has been committed, therefore an emergency exists and this law shall be in effect from and after its passage.

Approved March 3, 1911.