

SENATE BILL NO. 2043

Introduced by

Judiciary Committee

(At the request of the Attorney General)

1 A BILL for an Act to create and enact section 29-29.1-01.1 of the North Dakota Century Code,
2 relating to a warrant for electronic communication information; to amend and reenact
3 subsection 1 of section 29-29-01.2, subsection 1 of 29-29.1-03, and section 29-29.1-04 of the
4 North Dakota Century Code,
5 relating to requirements for valid issuance and to warrant validity days.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** Section 29-29.1-01.1 of the North Dakota Century Code is created and
7 enacted as follows:

8 **29-29.1-01.1. Warrant for electronic communication information.**

9 1. Definitions. As used in this section:

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11 “Electronic communication information” means any information about an
12 electronic communication or the use of an electronic communication service,
13 limited to the contents of electronic communications and precise or approximate
14 location of the sender or recipients at any point during the communication.

15 2. Notwithstanding chapter 29-29, any official or employee of the state or of a unit of
16 county or local government of the state may, under the conditions specified in this
17 section, obtain a warrant requiring disclosure of electronic communication information.

18 3. A warrant issued under this section may authorize the seizure of electronic storage
19 media or the seizure or copying of electronically stored information. Unless otherwise
20 specified, the warrant authorizes a later review of the media or information consistent
21 with the warrant.

1 4. Under this section, the time for executing the warrant refers to the seizure or onsite
2 copying of the media or information, and not to any later offsite copying or review.

3 5. The issuing magistrate may grant an extension of a warrant on the owner or
4 the possessor of electronic communication information upon an application under oath
5 stating the owner or the possessor has not produced the requested electronic
6 communication information within ten days and that an extension is necessary to
7 achieve the purposes for which the search warrant was granted. An extension may not
8 exceed thirty days.

9 **SECTION 2. AMENDMENT.** Subsection 1 of Section 29-29.1-02 of the North Dakota
Century Code is amended and reenacted as follows:

- 10 1. The one seeking the warrant shall establish under oath or affirmation that the property
or electronic communication information to be searched or inspected is to be searched
or inspected as a part of a legally authorized program of inspection which naturally
includes that property or electronic communication information, or that there is probable
cause for believing that there is a condition, object, activity, or circumstance which
legally justifies such a search or inspection of that property or electronic communication
information;

11 **SECTION 3. AMENDMENT.** Subsection 1 of section 29-29.1-03 of the North Dakota
12 Century Code is amended and reenacted as follows:

- 13 1. It must be signed by the issuing magistrate and must bear the date and hour
14 of its issuance above the magistrate's signature with a notation that the
15 warrant is valid for only ~~twenty-four hours~~ ten days following its issuance;

16 **SECTION 4. AMENDMENT.** Section 29-29.1-04 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **29-29.1-04. Warrant valid for ~~twenty-four hours~~ ten days.**

19 Any warrant issued under this chapter for a search or inspection is valid for only ~~twenty-four~~
20 ~~hours~~ ten days after its issuance, must be personally served upon an owner or possessor of the
21 property, or upon any person present on the premises if an owner or possessor cannot
22 reasonably be found between the hours of 8:00 a.m. and 8:00 p.m., and must be returned within
23 forty-eight hours of service except as provided in section 29-29.1-01.1.