

PROPOSED AMENDMENTS TO SENATE BILL NO. 2043

Page 1, after line 2, insert "subsection 1 of section 29-29.1-02,"

Page 1, line 3, after "29-29.1-03" insert a comma

Page 1, line 4, replace "insurance" with "issuance"

Page 1, line 9, remove "Definitions."

Page 1, line 9, remove the underscored colon

Page 1, remove lines 10 through 12

Page 1, line 13, replace "b." with a comma

Page 1, line 16, after the first "the" insert "target"

Page 1, line 16, replace "recipients" with "target recipient"

Page 2, line 3, remove "judge or"

Page 2, after line 8, insert:

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

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;"

Page 2, line 11, remove "judge or"

Page 2, line 12, remove "judge's or"

Renumber accordingly

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 29-29.1-02, subsection 1 of section 29-29.1-03, and section 29-29.1-04
4 of the North Dakota Century Code, relating to requirements for valid ~~insurance~~issuance and to
5 warrant validity days.

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

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

9 **29-29.1-01.1. Warrant for electronic communication information.**

10 1. Definitions. As used in this section:

11 ~~a. "Electronic communication" means the transfer of signs, signals, writings,~~
12 ~~images, sounds, data, or intelligence of any nature in whole or in part by a wire,~~
13 ~~radio, electromagnetic, photoelectric, or photo-optical system.~~

14 ~~b. "Electronic communication information" means any information about an~~
15 ~~electronic communication or the use of an electronic communication service,~~
16 ~~limited to the contents of electronic communications and precise or approximate~~
17 ~~location of the target sender or recipients target recipient at any point during the~~
18 ~~communication.~~

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

22 3. A warrant issued under this section may authorize the seizure of electronic storage
23 media or the seizure or copying of electronically stored information. Unless otherwise

1 specified, the warrant authorizes a later review of the media or information consistent
2 with the warrant.

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

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

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

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

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

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

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

27 **29-29.1-04. Warrant valid for ~~twenty-four hours~~ ten days.**

28 Any warrant issued under this chapter for a search or inspection is valid for only ~~twenty-four~~
29 ~~hours~~ ten days after its issuance, must be personally served upon an owner or possessor of the
30 property, or upon any person present on the premises if an owner or possessor cannot

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Legislative Assembly

- 1 reasonably be found between the hours of 8:00 a.m. and 8:00 p.m., and must be returned within
- 2 forty-eight hours of service except as provided in section 29-29.1-01.1.