

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2043
(Judiciary Committee)
(At the request of the Attorney General)

AN ACT to create and enact section 29-29.1-01.1 of the North Dakota Century Code, relating to a warrant for electronic communication information; to amend and reenact subsection 1 of section 29-29.1-02, subsection 1 of section 29-29.1-03, and section 29-29.1-04 of the North Dakota Century Code, relating to requirements for valid issuance and to warrant validity days.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. As used in this section, "Electronic communication information" means any information about an electronic communication or the use of an electronic communication service, limited to the contents of electronic communications and precise or approximate location of the target sender or target recipient at any point during the communication.
2. Notwithstanding chapter 29-29, any official or employee of the state or of a unit of county or local government of the state may, under the conditions specified in this section, obtain a warrant requiring disclosure of electronic communication information.
3. A warrant issued under this section may authorize the seizure of electronic storage media or the seizure or copying of electronically stored information. Unless otherwise specified, the warrant authorizes a later review of the media or information consistent with the warrant.
4. Under this section, the time for executing the warrant refers to the seizure or onsite copying of the media or information, and not to any later offsite copying or review.
5. The issuing magistrate may grant an extension of a warrant on the owner or the possessor of electronic communication information upon an application under oath stating the owner or the possessor has not produced the requested electronic communication information within ten days and that an extension is necessary to achieve the purposes for which the search warrant was granted. An extension may not exceed thirty days.

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;

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

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

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

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2043.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 91 Nays 1 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State