

CHAPTER 29-09

METHODS OF PROSECUTION

29-09-01. Public offenses, how prosecuted. Superseded by N.D.R.Crim.P., Rule 7.

29-09-02. Prosecution on information - In what cases. During each term of the district court held in and for any county in this state at which a grand jury has not been summoned and impaneled, the state's attorney of the county, or any other person appointed by the court, as provided by law, to prosecute a criminal action, shall file an information as the circumstances may require against any person accused of having committed a crime or public offense within such county, or one triable therein:

1. When such person has had a preliminary examination before a magistrate for such crime or public offense and, from the evidence taken thereat, the magistrate has ordered that such person 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 term of the district court in and for the county 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, but the fact that a preliminary examination was neither had nor waived does not invalidate an information unless the defendant objects to such information because of such fact before entering the defendant's plea;
4. When a person accused of a misdemeanor or infraction, 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 in which said offense is triable; and
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.

29-09-03. Prosecution on information without waiting for term of court. Superseded by N.D.R.Crim.P., Rules 7, 19.

29-09-04. Appearance in court - Chambers - Plea. Superseded by N.D.R.Crim.P., Rules 7, 19.

29-09-05. Right to file information when defendant discharged at preliminary examination. Superseded by N.D.R.Crim.P., Rule 7.

29-09-06. State's attorney shall inquire into charges. If, at a preliminary examination, a defendant is held to answer, the state's attorney or other person appointed to prosecute shall make full examination and inquiry into the facts and circumstances touching any crime or public offense alleged to have been committed, except as is otherwise provided in section 29-09-07, and triable in said county, and shall file an information charging the commission of a crime according to the facts ascertained on such examination and inquiry and from the written testimony taken before the magistrate, whether it is the offense charged in the complaint upon which the examination was had or some other offense.

29-09-07. Procedure when no information filed. If the state's attorney, or other person appointed to prosecute in any case mentioned in section 29-09-06, determines that an information ought not to be filed, the person shall present to the court a statement in writing setting forth the person's reasons in fact and in law for not filing an information. Such statement

must be filed at and during the term of the court to which the accused is held to appear for trial. The court thereupon shall examine such statement, together with the evidence filed in the case, and if, upon such examination, the court is not satisfied with such statement, the state's attorney, or other person appointed to prosecute, must be directed and required by the court to file the proper information and bring the case to trial. If the court does not require that an information be filed and the defendant is not held or wanted to answer for any other crime or public offense, the defendant must be discharged and the defendant's bail exonerated or money deposited refunded to the defendant.

29-09-08. Grand jury defined - Formation - Functions. Repealed by S.L. 1971, ch. 315, § 2.

29-09-09. When grand jury may be called. Repealed by S.L. 1971, ch. 315, § 2.

29-09-10. Request and petition filed fifteen days before term. Repealed by S.L. 1971, ch. 315, § 2.

29-09-11. Petition for grand jury - Petitioners - Number - Session. Repealed by S.L. 1971, ch. 315, § 2.