

## **CHAPTER 29-16 METHOD OF TRIAL**

**29-16-01. Issue of fact.** An issue of fact arises:

1. Upon a plea of not guilty;
2. Upon a plea of former conviction or acquittal of the same offense; or
3. Upon a plea of once in jeopardy.

**29-16-02. Issues of fact tried by jury - When trial by jury may be waived.** In any case, whether a misdemeanor or felony, a trial jury may be waived by the consent of the defendant and the state's attorney expressed in open court and entered on the minutes of the court. Otherwise, the issues of fact must be tried by the jury.

**29-16-03. Presence of defendant if felony charged.** Superseded by N.D.R.Crim.P., Rule 43.

**29-16-04. Presence of defendant in prosecution for misdemeanor.** Superseded by N.D.R.Crim.P., Rule 43.

**29-16-05. Order or warrant requiring presence of defendant.** If the presence of a defendant on trial for an infraction or a misdemeanor, who is voluntarily absent, is necessary for any purpose, the court, upon application of the state's attorney or other person appointed to prosecute, may make an order or warrant requiring the personal attendance of the defendant at the trial.

**29-16-06. Presence of defendant at proceedings before and after trial.** Superseded by N.D.R.Crim.P., Rule 43.

**29-16-07. Time to prepare for trial.** After a plea of not guilty, the defendant, if the defendant requests it, is entitled to at least one day to prepare for trial, and further time for good cause shown.