

## **CHAPTER 29-29 SEARCH WARRANTS**

### **29-29-01. Search warrant defined.**

A search warrant is an order in writing, made in the name of the state, signed by a magistrate, directed to a peace officer, commanding the peace officer to search for personal property and to bring it before the magistrate.

### **29-29-02. Grounds for issuance of search warrant.**

Superseded by N.D.R.Crim.P., Rule 41.

### **29-29-03. Issued only upon probable cause.**

Superseded by N.D.R.Crim.P., Rule 41.

### **29-29-04. Sworn complaint must be made - Depositions of witnesses.**

Superseded by N.D.R.Crim.P., Rule 41.

### **29-29-05. Requisites of search warrant.**

Superseded by N.D.R.Crim.P., Rule 41.

### **29-29-06. Form of search warrant.**

Superseded by N.D.R.Crim.P., Rules 41, 58.

### **29-29-07. By whom search warrant served.**

Superseded by N.D.R.Crim.P., Rule 41.

### **29-29-08. Execution of warrant - Use of force.**

An officer directed to serve a search warrant may break open an outer or inner door or window of a house, or any part of the house, or anything therein, to execute the warrant:

1. If, after notice of the officer's authority and purpose, the officer is refused admittance;  
or
2. Without notice of the officer's authority and purpose if the warrant was issued by a magistrate who is learned in the law and who has inserted a direction therein that the officer executing it shall not be required to give such notice.

The magistrate may so direct only upon written or recorded oral petition and proof under oath, to the magistrate's satisfaction, that the property sought may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result, if such notice were to be given.

### **29-29-09. Liberating self or assistant - Use of force.**

To execute a search warrant, an officer may break open any outer or inner door or window of a house for the purpose of liberating a person who, having entered to aid the officer in the execution of the warrant, is detained therein, or when necessary for the officer's own liberation.

### **29-29-10. Search warrant to be served in daytime - Exception.**

Superseded by N.D.R.Crim.P., Rule 41.

### **29-29-11. Search warrant void if not executed in ten days.**

Superseded by N.D.R.Crim.P., Rule 41.

### **29-29-12. Return of warrant.**

Superseded by N.D.R.Crim.P., Rule 41.

**29-29-13. Copy of inventory - To whom delivered.**

Superseded by N.D.R.Crim.P., Rule 41.

**29-29-14. Complaint controverted - Testimony in writing - Authentication.**

Superseded by N.D.R.Crim.P., Rule 41.

**29-29-15. When property taken under search warrant to be restored.**

Superseded by N.D.R.Crim.P., Rule 41.

**29-29-16. Papers relating to search warrant to be returned to district court.**

Superseded by N.D.R.Crim.P., Rule 41.

**29-29-17. Disposal of property taken on a warrant.**

Superseded by N.D.R.Crim.P., Rule 41.

**29-29-18. Causing issuance of search warrant on false information - Penalty.**

A person who recklessly and without probable cause causes a search warrant to be issued and executed is guilty of a class A misdemeanor.

**29-29-19. Officer exceeding authority guilty of misdemeanor.**

Repealed by S.L. 1975, ch. 106, § 673.

**29-29-20. Search of accused for dangerous weapons - Circumstances permitting.**

When a person charged with a felony is supposed by the magistrate before whom the person is brought to have possession of a dangerous weapon, or anything which may be used as evidence of the commission of the offense, the magistrate may direct the person to be searched in the magistrate's presence, and the weapon or other thing to be retained, subject to the magistrate's order or the order of the court in which the defendant may be tried.

**29-29-21. Temporary questioning of persons in public places - Search for weapons.**

A peace officer may stop any person abroad in a public place whom the officer reasonably suspects is committing, has committed, or is about to commit:

1. Any felony.
2. A misdemeanor relating to the possession of a concealed or dangerous weapon or weapons.
3. Burglary or unlawful entry.
4. A violation of any provision relating to possession of marijuana or of narcotic, hallucinogenic, depressant, or stimulant drugs.

The peace officer may demand of such person the person's name, address, and an explanation of the person's actions. When a peace officer has stopped a person for questioning pursuant to this section and reasonably suspects that the officer is in danger of life or limb, the officer may search such person for a dangerous weapon. If the peace officer finds such a weapon or any other thing, the possession of which may constitute a crime, the officer may take and keep it until the completion of the questioning, at which time the officer shall either return it, if lawfully possessed, or arrest such person.

**29-29-22. Release of information contained in complaint or warrant.**

The magistrate who issues a search warrant shall order the information in the complaint and warrant confidential, if the law enforcement officer articulates a reason for the confidentiality that convinces the issuing magistrate that limited confidentiality is necessary for the safety of the law enforcement officer or to enable the warrant to be properly served. The magistrate shall limit the duration of the order to the time of the arrest of the accused and shall exempt law enforcement officers in the performance of official duties.