

## **CHAPTER 29-29.1 ADMINISTRATIVE SEARCH WARRANTS**

### **29-29.1-01. Warrants to conduct inspections authorized by law.**

1. Notwithstanding the provisions of chapter 29-29, any official or employee of the state or of a unit of county or local government of North Dakota may, under the conditions specified herein, obtain a warrant authorizing to conduct a search or inspection of property if such a search or inspection is one that is elsewhere authorized by law, either with or without the consent of the person whose privacy would be thereby invaded, and is one for which such a warrant is constitutionally required.
2. The warrant may be issued by any magistrate whose territorial jurisdiction encompasses the property to be inspected.

### **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.

### **29-29.1-02. Conditions to be met before issuance.**

The issuing magistrate shall issue the warrant when the magistrate is satisfied the following conditions are met:

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;
2. An affidavit indicating the basis for the establishment of one of the grounds described in subsection 1 must be signed under oath or affirmation by the affiant; and
3. The issuing magistrate shall examine the affiant under oath or affirmation to verify the accuracy of the matters indicated by the statement in the affidavit.

### **29-29.1-03. Requirements for valid issuance.**

The warrant is validly issued only if it meets the following requirements:

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 ten days following its issuance;

2. It must describe, either directly or by reference to the affidavit, the property where the search or inspection is to occur and be accurate enough in description so that the executor of the warrant and the owner or the possessor of the property can reasonably determine from it what person or property the warrant authorizes an inspection of;
3. It must indicate the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal; and
4. It must be attached to the affidavit required to be made in order to obtain the warrant.

**29-29.1-04. Warrant valid for ten days.**

Any warrant issued under this chapter for a search or inspection is valid for only 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.

**29-29.1-05. Competency of evidence discovered.**

No facts discovered or evidence obtained in a search or inspection conducted under authority of a warrant issued under this chapter may be competent as evidence in any civil, criminal, or administrative action, nor considered in imposing any civil, criminal, or administrative sanction against any person, nor as a basis for further seeking to obtain any warrant, if the warrant is invalid or if what is discovered or obtained is not a condition, object, activity, or circumstance which it was the legal purpose of the search or inspection to discover; but this does not prevent any such facts or evidence to be so used when the warrant issued is not constitutionally required in those circumstances.

**29-29.1-06. Not criminal search warrants.**

The warrants authorized under this chapter may not be regarded as search warrants for the purpose of application of chapter 29-29.