

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 13
INFORMATION AND PROCEEDINGS THEREON

19-1301. POWER AND JURISDICTION OF COURTS. The several courts of this state shall possess and may exercise the same power and jurisdiction to hear, try, and determine prosecutions upon information for crimes, misdemeanors and offenses, to issue writs and process, and do all other acts therein as they possess and may exercise in cases of like prosecutions upon indictments.

[(19-1301) 1890-1891, p. 184, sec. 1; reen. 1899, p. 125, sec. 1; reen. R.C. & C.L., sec. 7655; C.S., sec. 8809; I.C.A., sec. 19-1201.]

19-1302. FILING AND ENDORSEMENT OF INFORMATION. All informations shall be filed in the court having jurisdiction of the offense specified therein by the prosecuting attorney as informant to which he shall subscribe his name.

[(19-1302) 1890-1891, p. 184, sec. 2; reen. 1899, p. 125, sec. 2; am. R.C., sec. 7656; am. 1913, ch. 41, p. 144; am. 1915, ch. 68, sec. 1, p. 176; reen. C.L., sec. 7656; C.S., sec. 8810; I.C.A., 19-1202; am. 1989, ch. 343, sec. 1, p. 867.]

19-1303. STATEMENT OF OFFENSE CHARGED. The offense charged in all informations shall be stated with the same fullness and precision in matters of substance as is required in indictments in like cases, and in all cases defendant or defendants shall have the same rights as to proceedings therein as he or they would have if prosecuted for the same offense upon indictment.

[(19-1303) 1890-1891, p. 184, sec. 3; am. 1893, p. 164, sec. 1; reen. 1899, p. 125, sec. 3; reen. R.C. & C.L., sec. 7657; C.S., sec. 8811; I.C.A., sec. 19-1203.]

19-1304. PROVISIONS CONCERNING INDICTMENT APPLICABLE TO INFORMATION. The provisions of this code in relation to indictments, and all other provisions of law applying to prosecutions upon indictments, to writs and process therein, and the issuing and service thereof, to motions, pleadings, trials and punishments, or the execution of any sentence, and to all other proceedings in cases of indictment, whether in the court of original or appellate jurisdiction, shall in the same manner and to the same extent, as near as may be, apply to informations and all prosecutions and proceedings thereon.

[(19-1304) 1890-1891, p. 184, sec. 4; reen. 1899, p. 125, sec. 4; am. R.C. & C.L., sec. 7658; C.S., sec. 8812; I.C.A., sec. 19-1204.]

19-1305. COMMITMENT AND BAIL PENDING INFORMATION. Any person who may according to law be committed to jail, or become recognized or held to bail with sureties for his appearance in court to answer to any indictment may, in like manner, so be committed to jail or become recognized and held to bail for his appearance to answer to any information or indictment, as the case may be.

[(19-1305) 1890-1891, p. 184, sec. 5; reen. 1899, p. 125, sec. 5; reen. R.C. & C.L., sec. 7659; C.S., sec. 8813; I.C.A., sec. 19-1205.]

19-1306. PROSECUTING ATTORNEY TO INQUIRE INTO FACTS. It shall be the duty of the prosecuting attorney to inquire into and make full examination of all the facts and circumstances connected with any case of preliminary examination as provided by law, touching the commission of any offense wherein the offender shall be committed to jail or become recognized or held to bail, and if the prosecuting attorney shall determine in any such case that an information ought not to be filed, he shall make, subscribe and file with the clerk of the court a statement in writing containing his reasons, in fact and in law, for not filing an information in such case, and such statement shall be filed at and during the term of court at which the offender shall be held for his appearance: provided, that in such case such court may examine said statement, together with the evidence filed in the case; and if, upon such examination, the court shall not be satisfied with said statement, the prosecuting attorney shall be directed by the court to file the proper information and bring the case to trial.

[(19-1306) 1890-1891, p. 184, sec. 6; reen. 1899, p. 125, sec. 6; reen. R.C. & C.L., sec. 7660; C.S., sec. 8814; I.C.A., sec. 19-1206.]

19-1307. GRAND JURY TO BE DRAWN ONLY BY DIRECTION OF JUDGE. Grand juries shall not hereafter be drawn, summoned, or required to attend at the sittings of any court within the state, as provided by law, unless the judge thereof shall so direct in writing, under his hand, and filed with the clerk of said court.

[(19-1307) 1890-1891, p. 184, sec. 7; reen. 1899, p. 125, sec. 7; reen. R.C. & C.L., sec. 8815; I.C.A., sec. 19-1207.]

19-1308. PRELIMINARY EXAMINATION NECESSARY. No information shall be filed against any person for any offense until such person shall have had a preliminary examination therefor, as provided by law, before a justice of the peace, or other examining magistrate or officer, unless such person shall waive his right to such examination: provided, that information may be filed without such examination against fugitives from justice, and any fugitive from justice against whom an information shall be filed may be demanded by the governor of this state of the executive authority of any other state or territory, or of any foreign government, in the same manner, and the same proceedings may be had thereon, as provided by law in like cases of demand upon indictment filed.

[(19-1308) 1890-1891, p. 184, sec. 8; reen. 1899, p. 125, sec. 8; reen. R.C. & C.L., sec. 7662; C.S., sec. 8816; I.C.A., sec. 19-1208.]

19-1309. DISCOVERY AND INSPECTION. (1) Upon motion of a defendant the court may order the prosecuting attorney to permit the defendant to inspect and copy or photograph any relevant:

(a) written or recorded statements or confessions made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney,

(b) results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney, and

(c) recorded testimony of the defendant before a grand jury.

(2) Upon motion of a defendant the court may order the prosecuting attorney to permit the defendant to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the state, upon a showing of materiality to the preparation of his defense and that the request is reasonable. Except as provided in subsection (1) (b), this section does not authorize the discovery or inspection of reports, memoranda, or other internal state documents made by state agents in connection with the investigation or prosecution of the case, or of statements made by state witnesses or prospective state witnesses (other than the defendant) to agents of the state.

(3) If the court grants relief sought by the defendant under subsection (1) (b) or subsection (2) of this section, it may, upon motion of the state, condition its order by requiring that the defendant permit the state to inspect and copy or photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions thereof, which the defendant intends to produce at the trial and which are within his possession, custody or control, upon a showing of materiality to the preparation of the state's case and that the request is reasonable. Except as to scientific or medical reports, this subsection does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents made by the defendant, or his attorneys or agents in connection with the investigation or defense of the case, or of statements made by the defendant, or by state or defense witnesses, or by prospective state or defense witnesses, to the defendant, his agents or attorneys.

(4) An order of the court granting relief under this section shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.

(5) Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted or deferred, or make such other order as is appropriate. Upon motion by the state, the court may permit the state to make such showing, in whole or in part, in the form of a written statement to be inspected by the court in camera. If the court enters an order granting relief following a showing in camera, the entire text of the state's statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal by the defendant.

(6) A motion under this section may be made only within ten (10) days after arraignment or at such reasonable later time as the court may permit. The motion shall include all relief sought under this section. A subsequent motion may be made only upon a showing of cause why such motion would be in the interest of justice.

(7) If, subsequent to compliance with an order issued pursuant to this section, and prior to or during trial, a party discovers additional material previously requested or ordered which is subject to discovery or inspection under the section, he shall promptly notify the other party or his attorney or the court of the existence of the additional material. If at any time dur-

ing the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this section or with an order issued pursuant to this section, the court may order such party to permit the discovery or inspection of materials not previously disclosed, grant a continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may enter such other order as it deems just under the circumstances.

[I.C., sec. 19-1309, as added by 1969, ch. 243, sec. 1, p. 761.]