

CHAPTER 29-02
PREVENTION OF PUBLIC OFFENSES

29-02-01. Lawful resistance to commission of offense, by whom made.

Lawful resistance to the commission of a public offense may be made:

1. By the party about to be injured; or
2. By other parties.

29-02-02. Resistance by party about to be injured.

Resistance sufficient to prevent a public offense may be made by a party about to be injured:

1. To prevent an offense against the party's person or the party's family or some member thereof; or
2. To prevent an illegal attempt by force to take or injure property in the party's lawful possession.

29-02-03. Third person may resist offense.

Any person, in aid or defense of a person about to be injured by a public offense, may make resistance sufficient to prevent the offense.

29-02-04. Public offense may be prevented by officers.

Public offenses may be prevented by the intervention of officers of justice:

1. By requiring security to keep the peace;
2. By providing police in cities and by requiring their attendance in exposed places; and
3. By suppressing riots.

29-02-05. Persons aiding officers justified.

Whenever officers of justice are authorized to act in the prevention of public offenses, other persons who by their command act in their aid are justified in so doing.

29-02-06. Complaint for threatening, before whom laid.

A complaint may be laid before any magistrate mentioned in section 29-01-14, authorized by law to act within the county, that a person has threatened to commit an offense against the person or property of another.

29-02-07. Complaint as to threatened offense.

A complaint within the meaning of section 29-02-06 is a statement in writing, made to a magistrate, that a person has threatened to commit an offense against the person or property of another, and subscribed and sworn to by the complainant.

29-02-08. Magistrate must issue warrant.

If it appears from a complaint to a magistrate that there is just reason to fear the commission of an offense threatened by the person complained of, the magistrate shall issue a warrant directed generally to the sheriff of the county, marshal, or policeman of the city, reciting the substance of the complaint and commanding the officer forthwith to arrest the person complained of and to bring that person before the magistrate.

29-02-09. Procedure when charge controverted.

If a person complained of is brought before a magistrate upon the charge that that person threatened to commit an offense against another, the magistrate, if the charge is controverted, shall take testimony in relation thereto. The evidence on demand of the defendant must be reduced to writing and subscribed by the witnesses.

29-02-10. When accused must be discharged.

If it appears that there is no just reason to fear the commission of an offense alleged to have been threatened, the person complained of must be discharged.

29-02-11. When accused must give undertaking.

If there is just reason to fear the commission of an offense, the person complained of may be required to enter into an undertaking in such sum, not exceeding one thousand dollars, as the magistrate may direct, with one or more sufficient sureties to abide the order of the next district court of the county, and in the meantime to keep the peace toward the people of this state, and particularly toward the complainant.

29-02-12. When undertaking is or is not given.

If an undertaking to keep the peace as required by section 29-02-11 is given, the party complained of must be discharged. If the party does not give it, the magistrate shall commit the person to prison specifying in the warrant the requirement to give security, the amount thereof, and the omission to give the same.

29-02-13. Accused committed - How discharged - Undertaking transmitted to district court.

If a person complained of for threatening to commit an offense against the person or property of another is committed for not giving security, that person, upon giving the same, may be discharged by any municipal judge who is authorized to act as a committing magistrate, or by the judge of the district court of the county. Any undertaking so accepted must be transmitted by the acting magistrate to the district court of the county for disposition at the next term.

29-02-14. Assault in presence of court - Security required - Committed on default.

A person who in the presence of a court or magistrate assaults or threatens to assault another, or to commit an offense against another's person or property, or who contends with another with angry words, may be ordered by the court or magistrate to give security, as is provided in section 29-02-11, or if that person refuses to do so that person may be committed as is provided in section 29-02-12.

29-02-15. Accused must appear at district court.

A person who has entered into an undertaking to keep the peace shall appear on the first day of the next term of the district court of the county. If that person does not, the court may forfeit that person's undertaking and order it to be prosecuted unless that person's default is excused.

29-02-16. Complainant not appearing - Accused discharged.

If the one who complained of a person who has entered into an undertaking to keep the peace does not appear on the first day of the next term of the district court of the county, the person complained of may be discharged unless good cause to the contrary is shown.

29-02-17. Procedure when parties appear.

If the complainant and accused both appear, as is required by sections 29-02-15 and 29-02-16, the court may hear their proofs and allegations, and may discharge the undertaking or require a new one for a time not exceeding one year.

29-02-18. When undertaking broken.

An undertaking to keep the peace is broken on the failure of a person complained of to appear at the district court as provided in section 29-02-15 or upon that person's being convicted of a breach of the peace.

29-02-19. Action upon the undertaking to keep peace.

If the state's attorney produces to the district court to which an undertaking to keep the peace is returned, evidence that the principal has been convicted of a breach of the peace, that court shall order the undertaking to be prosecuted and the state's attorney thereupon shall commence an action upon it in the name of this state.

29-02-20. What alleged in action.

In an action prosecuted for breach of an undertaking to keep the peace, the offense stated in the record of conviction must be alleged as the breach of the undertaking, and such record is conclusive evidence thereof.

29-02-21. Limitation.

Security to keep the peace or to be of good behavior cannot be required except as is prescribed in this chapter.

29-02-22. Costs to be taxed.

In all cases in which security is furnished under the provisions of this chapter to keep the peace, the court, in addition to the orders mentioned in this chapter, shall tax the costs against the complainant or defendant, or both, as justice may require, and shall enter judgment therefor. Such judgment may be enforced as a judgment for costs in a criminal case, and execution may issue therefor.

29-02-23. Police to attend public meetings - Direction.

The mayor or other officer having the direction of the police in a city shall order a force sufficient to preserve the peace to attend any public meeting when that person is satisfied that a breach of the peace is reasonably apprehended.

29-02-24. When officers may disperse assembly.

If the persons assembled and commanded to disperse do not immediately disperse, any magistrate or law enforcement officer may command the aid of a sufficient number of persons and may proceed in such manner as in that person's judgment is necessary to disperse the assembly and arrest the offenders.