

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 236

SENATE BILL NO. 2232

(Senators Armstrong, Carlisle, Nelson)
(Representatives Mooney, Sanford, Zubke)

AN ACT to amend and reenact sections 29-04-02.1 and 29-04-03.2 of the North Dakota Century Code, relating to the statute of limitations for the crime of human trafficking.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-04-02.1 of the North Dakota Century Code is amended and reenacted as follows:

29-04-02.1. Prosecution for gross sexual imposition or human trafficking.

Except as otherwise provided by law, a prosecution for a violation of subdivision a of subsection 1 of section 12.1-20-03 or for the crime of human trafficking must be commenced in the proper court within seven years after the commission of the offense.

SECTION 2. AMENDMENT. Section 29-04-03.2 of the North Dakota Century Code is amended and reenacted as follows:

29-04-03.2. Statute of limitations as to child victim.

If the victim of a violation of chapter 12.1-20 or of the crime of human trafficking is under the age of fifteen, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of fifteen.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 237

HOUSE BILL NO. 1467

(Representatives Monson, K. Koppelman)
(Senator Hogue)

AN ACT to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota Century Code, relating to the authority of federal agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

29-06-05.2. Federal law enforcement officer - Authority to make arrests.

1. "Federal agent" means an employee of the federal bureau of investigation or, the federal drug enforcement administration, or the United States customs and border protection who is authorized to arrest, with or without a warrant, any individual for a violation of the United States Code and carry a firearm in the performance of the employee's duties as a federal law enforcement officer.
2. A federal agent has the same authority and immunity as a peace officer in this state when making an arrest for a nonfederal crime if any of the following exist:
 - a. The federal agent has reasonable grounds to believe that a felony offense was committed and the individual arrested committed the offense.
 - b. The federal agent is rendering assistance to a peace officer in an emergency or at the request of the peace officer.
 - c. The federal agent is working as a part of a task force composed of North Dakota peace officers and federal law enforcement officers.

SECTION 2. AMENDMENT. Section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

29-06-15. Arrest without warrant - Peace officer - Officer in the United States ~~customs service or the immigration and naturalization service~~ and border protection.

1. A law enforcement officer, without a warrant, may arrest a person:
 - a. For a public offense, committed or attempted in the officer's presence and for the purpose of this subdivision, a crime must be deemed committed or attempted in the officer's presence when what the officer observes through the officer's senses reasonably indicates to the officer that a crime was in fact committed or attempted in the officer's presence by the person arrested.

- b. When the person arrested has committed a felony, although not in the officer's presence.
 - c. When a felony in fact has been committed, and the officer has reasonable cause to believe the person arrested to have committed it.
 - d. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested.
 - e. For the public offenses, not classified as felonies and not committed in the officer's presence as provided for under section 29-06-15.1.
 - f. On a charge, made upon reasonable cause, of driving or being in actual physical control of a vehicle while under the influence of alcoholic beverages.
 - g. For the offense of violating a protection order under section 14-07.1-06, an order prohibiting contact under section 12.1-31.2-02, or for an assault involving domestic violence under section 14-07.1-11.
 - h. On a charge, made upon reasonable cause, of being under the influence of volatile chemical vapors in violation of section 19-03.1-22.1.
2. An officer of the United States customs ~~service or the immigration and naturalization service~~ and border protection, without a warrant, may arrest a person if all of the following circumstances exist:
- a. The officer is on duty.
 - b. One or more of the following situations exist:
 - (1) The person commits an assault or other crime, defined and punishable under chapter 12.1-17, against the officer or against any other person in the presence of the officer.
 - (2) The officer has reasonable cause to believe that a crime, as defined in paragraph 1, has been committed and reasonable cause to believe that the person to be arrested has committed it.
 - (3) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person to be arrested has committed it.
 - (4) The officer has received positive information from an authoritative source that a peace officer holds a warrant for the person's arrest.
 - ~~e. The officer has received training in the laws of this state equivalent to the training provided for a police officer under chapter 12-62.~~
3. If a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court of this state which requires the individual to participate in the twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31, the law enforcement officer may immediately take the individual into custody without a warrant. An individual taken into custody under this subsection may not be released on bail or on the individual's

personal recognizance unless the individual has made a personal appearance before a magistrate.

Approved April 2, 2015
Filed April 2, 2015

CHAPTER 238

SENATE BILL NO. 2098

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact section 29-28-07 of the North Dakota Century Code, relating to appeals by the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-28-07 of the North Dakota Century Code is amended and reenacted as follows:

29-28-07. From what the state may appeal.

An appeal may be taken by the state from:

1. An order quashing an information or indictment or any count thereof.
2. An order granting a new trial.
3. An order arresting judgment.
4. An order made after judgment affecting any substantial right of the state.
5. An order granting the return of property or suppressing evidence, or suppressing a confession or admission, when accompanied by a statement of the prosecuting attorney asserting that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding. The statement must be filed with the clerk of district court and a copy must accompany the notice of appeal.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 239

HOUSE BILL NO. 1328

(Representatives Rick C. Becker, Beadle, Boehning, Kasper, Klemin, Ruby, Thoreson,
Toman)
(Senators Anderson, Hogue, Larsen, Unruh)

AN ACT to provide for limitations on the use of an unmanned aerial vehicle for surveillance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Definitions.

As used in this Act:

1. "Flight data" means imaging or other observation recording.
2. "Flight information" means flight duration, flight path, and mission objective.
3. "Law enforcement agency or agents" has the meaning provided for law enforcement officer in section 12.1-01-04.
4. "Unmanned aerial vehicle" means any aerial vehicle that is operated without the possibility of direct human intervention within or on the aerial vehicle. The term does not include satellites.
5. "Unmanned aerial vehicle system" means an unmanned aerial vehicle and associated elements, including communication links and the components that control the unmanned aerial vehicle, which are required for the pilot in command to operate safely and efficiently in state airspace.

SECTION 2.

Limitations on use of unmanned aerial vehicle system.

1. Information obtained from an unmanned aerial vehicle is not admissible in a prosecution or proceeding within the state unless the information was obtained:
 - a. Pursuant to the authority of a search warrant; or
 - b. In accordance with exceptions to the warrant requirement.
2. Information obtained from the operation of an unmanned aerial vehicle may not be used in an affidavit of probable cause in an effort to obtain a search warrant, unless the information was obtained under the circumstances described in subdivision a or b of subsection 1 or was obtained through the monitoring of public lands or international borders.

SECTION 3.

Warrant requirements.

A warrant for the use of an unmanned aerial vehicle must satisfy the requirements of the Constitution of North Dakota. In addition, the warrant must contain a data collection statement that includes:

1. The persons that will have the power to authorize the use of the unmanned aerial vehicle;
2. The locations in which the unmanned aerial vehicle system will operate;
3. The maximum period for which the unmanned aerial vehicle system will operate in each flight; and
4. Whether the unmanned aerial vehicle system will collect information or data about individuals or groups of individuals, and if so:
 - a. The circumstances under which the unmanned aerial vehicle system will be used; and
 - b. The specific kinds of information or data the unmanned aerial vehicle system will collect about individuals and how that information or data, as well as conclusions drawn from that information or data, will be used, disclosed, and otherwise handled, including:
 - (1) The period for which the information or data will be retained; and
 - (2) Whether the information or data will be destroyed, and if so, when and how the information or data will be destroyed.

SECTION 4.

Exceptions.

This Act does not prohibit any use of an unmanned aerial vehicle for surveillance during the course of:

1. Patrol of national borders. The use of an unmanned aerial vehicle to patrol within twenty-five miles [40.23 kilometers] of a national border, for purposes of policing that border to prevent or deter the illegal entry of any individual, illegal substance, or contraband.
2. Exigent circumstances. The use of an unmanned aerial vehicle by a law enforcement agency is permitted when exigent circumstances exist. For the purposes of this subsection, exigent circumstances exist when a law enforcement agency possesses reasonable suspicion that absent swift preventative action, there is an imminent danger to life or bodily harm.
3. An environmental or weather-related catastrophe. The use of an unmanned aerial vehicle by state or local authorities to preserve public safety, protect property, survey environmental damage to determine if a state of emergency should be declared, or conduct surveillance for the assessment and evaluation of environmental or weather-related damage, erosion, flood, or contamination.

4. Research, education, training, testing, or development efforts undertaken by or in conjunction with a school or institution of higher education within the state and its political subdivisions, nor to public and private collaborators engaged in mutually supported efforts involving research, education, training, testing, or development related to unmanned aerial vehicle systems or unmanned aerial vehicle system technologies and potential applications.

SECTION 5.

Prohibited use.

1. A law enforcement agency may not authorize the use of, including granting a permit to use, an unmanned aerial vehicle armed with any lethal weapons.
2. This Act prohibits any use of an unmanned aerial vehicle for:
 - a. Domestic use in private surveillance. A law enforcement agency may not authorize the use of, including granting a permit to use, an unmanned aerial vehicle to permit any private person to conduct surveillance on any other private person without the express, informed consent of that other person or the owner of any real property on which that other private person is present.
 - b. Surveillance of the lawful exercise of constitutional rights, unless the surveillance is otherwise allowed under this chapter.

SECTION 6.

Documentation of unmanned aerial vehicle use.

1. The person authorized to conduct the surveillance under this Act shall document all use of an unmanned aerial vehicle for surveillance. The person shall document all surveillance flights as to duration, flight path, and mission objectives.
2. The flight information must be verified as accurate and complete by the supervising person authorized by a court to conduct the surveillance.
3. The flight information required under this section must be retained for five years.
4. Any imaging or any other forms of data lawfully obtained under this Act which are not accompanied by a reasonable and articulable suspicion that the images or data contain evidence of a crime, or are relevant to an ongoing investigation or trial, may not be retained for more than ninety days.
5. Except for the operational capabilities of the unmanned aerial vehicle system and other operational information strictly related to the technical conduct and physical security of the surveillance operation, a person accused of a crime that includes evidence gathered through the use of an unmanned aerial vehicle system surveillance may obtain all information relating to the person acquired in the course of the surveillance through subpoena and discovery proceedings available in criminal proceedings.
6. Any other person that has an interest in obtaining the documentation required by this section may obtain that documentation pursuant to chapter 44-04.