

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1234

Introduced by

Representatives Roers Jones, Boschee, Satrom

Senators Myrdal, Oban

1 A BILL for an Act to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota
2 Century Code, relating to the authority of federal agents.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

6 **29-06-05.2. Federal law enforcement officer - Authority to make arrests.**

7 1. "Federal agent" means an employee of the federal bureau of investigation; the federal
8 drug enforcement administration; the bureau of alcohol, tobacco, firearms and
9 explosives; the homeland security investigations unit of the department of homeland
10 security; or the United States customs and border protection who is authorized to
11 arrest, with or without a warrant, any individual for a violation of the United States
12 Code and carry a firearm in the performance of the employee's duties as a federal law
13 enforcement officer. The term does not include the bureau of Indian affairs police
14 unless an agreement is in effect between the state and the bureau of Indian affairs
15 relating to the reciprocal jurisdiction of state and bureau of Indian affairs law
16 enforcement officers.

17 2. A federal agent has the same authority and immunity as a peace officer in this state
18 when making an arrest for a nonfederal crime if any of the following exist:

19 a. The federal agent has reasonable grounds to believe that a felony offense was
20 committed and the individual arrested committed the offense.

21 b. The federal agent is rendering assistance to a peace officer in an emergency or
22 at the request of the peace officer.

23 c. The federal agent is working as a part of a task force composed of North Dakota
24 peace officers and federal law enforcement officers.

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

3 **29-06-15. Arrest without warrant - Peace officer - ~~Officer in the United States customs~~**
4 **~~and border protection~~ Federal agent.**

5 1. A law enforcement officer, without a warrant, may arrest a person:

6 a. For a public offense, committed or attempted in the officer's presence and for the
7 purpose of this subdivision, a crime must be deemed committed or attempted in
8 the officer's presence when what the officer observes through the officer's senses
9 reasonably indicates to the officer that a crime was in fact committed or
10 attempted in the officer's presence by the person arrested.

11 b. When the person arrested has committed a felony, although not in the officer's
12 presence.

13 c. When a felony in fact has been committed, and the officer has reasonable cause
14 to believe the person arrested to have committed it.

15 d. On a charge, made upon reasonable cause, of the commission of a felony by the
16 party arrested.

17 e. For the public offenses, not classified as felonies and not committed in the
18 officer's presence as provided for under section 29-06-15.1.

19 f. On a charge, made upon reasonable cause, of driving or being in actual physical
20 control of a vehicle while under the influence of alcoholic beverages.

21 g. For the offense of violating a protection order under section 14-07.1-06, an order
22 prohibiting contact under section 12.1-31.2-02, or for an assault involving
23 domestic violence under section 14-07.1-11.

24 h. On a charge, made upon reasonable cause, of being under the influence of
25 volatile chemical vapors in violation of section 19-03.1-22.1.

26 2. ~~An officer of the United States customs and border protection~~ A federal agent, without
27 a warrant, may arrest a person if all of the following circumstances exist:

28 a. The officer is on duty.

29 b. One or more of the following situations exist:

- 1 (1) The person commits an assault or other crime, defined and punishable
2 under chapter 12.1-17, against the officer or against any other person in the
3 presence of the officer.
- 4 (2) The officer has reasonable cause to believe that a crime, as defined in
5 paragraph 1, has been committed and reasonable cause to believe that the
6 person to be arrested has committed it.
- 7 (3) The officer has reasonable cause to believe that a felony has been
8 committed and reasonable cause to believe that the person to be arrested
9 has committed it.
- 10 (4) The officer has received positive information from an authoritative source
11 that a peace officer holds a warrant for the person's arrest.
- 12 3. If a law enforcement officer has reasonable cause to believe an individual has violated
13 a lawful order of a court of this state which requires the individual to participate in the
14 twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31,
15 the law enforcement officer may immediately take the individual into custody without a
16 warrant. An individual taken into custody under this subsection may not be released on
17 bail or on the individual's personal recognizance unless the individual has made a
18 personal appearance before a magistrate.