

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; the bureau of Indian affairs police; federal law enforcement officers; or the
11 United States customs and border protection who is authorized to arrest, with or
12 without a warrant, any individual for a violation of the United States Code and carry a
13 firearm in the performance of the employee's duties as a federal law enforcement
14 officer. ~~The term does not include the bureau of Indian affairs police unless an~~
15 ~~agreement is in effect between the state and the bureau of Indian affairs relating to the~~
16 ~~reciprocal jurisdiction of state and bureau of Indian affairs law 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.