

HOUSE BILL NO. 1123

Introduced by

Representatives Roers Jones, Becker, Hanson, M. Johnson, Klemin, Mock

Senators Bakke, Dwyer, Myrdal

1 A BILL for an Act to amend and reenact sections 29-08-02 and 29-05-12 of the North Dakota
2 Century Code, relating to bail and a summons in lieu of arrest warrant.

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

4 **SECTION 1. AMENDMENT.** Section 29-08-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **29-08-02. Admission to bail defined - Delegation of authority by magistrate -**

7 **Exception.**

8 1. Admission to bail is the order of a competent court or magistrate that the defendant be
9 discharged from actual custody upon an undertaking with sufficient sureties for the
10 defendant's appearance.

11 2. Except as otherwise prohibited by law or in a case involving an offense under section
12 12.1-17-01.2, a resident of this state arrested with or without a warrant for a
13 misdemeanor offense must be released from custody on the individual's own
14 recognizance and without appearing before a magistrate. In a misdemeanor arrest
15 warrant, a magistrate may order the posting of bail if the magistrate has reasonable
16 and probable grounds to believe an individual will disregard a written promise to
17 appear under this subsection.

18 3. Any magistrate or municipal judge in this state may designate, authorize, and appoint
19 an additional person or persons a designee to arrange, receive, and approve forward
20 bail in cases involving traffic violationsto the court.

21 **SECTION 2. AMENDMENT.** Section 29-05-12 of the North Dakota Century Code is
22 amended and reenacted as follows:

1 **29-05-12. BailSummons in lieu of arrest warrant and bail if offense charged is a**
2 **misdemeanor ~~or~~, infraction, or subject to presumptive probation.**

3 1. Except as otherwise prohibited by law, a magistrate authorizing a criminal charge for a
4 misdemeanor, infraction, or class C felony subject to presumptive probation under
5 section 12.1-32-07.4 shall issue a summons to appear.

6 2. ~~If the offense charged in a warrant of arrest is a misdemeanor ~~or~~, infraction ~~not within~~~~
7 ~~the jurisdiction of the magistrate who issued it to punish, and the accused is arrested~~
8 ~~in another county, the officer, upon, or class C felony subject to presumptive probation~~
9 ~~and the issuing magistrate has specified bail and release conditions, the accused who~~
10 ~~is arrested in a county not within the jurisdiction of the issuing magistrate and who is~~
11 ~~unable to post bail may request to appear before a local magistrate. Upon request of~~
12 ~~the accused, the arresting officer shall take the accused before a magistrate in the~~
13 ~~county in which the arrest is made, who and the magistrate shall admit the accused~~
14 ~~to amend the bail and take bail from of the accused accordingly. If there is no~~
15 ~~magistrate residing within the county ~~wherein~~where the accused is arrested, and the~~
16 ~~accused requires it~~has requested to appear before a local magistrate, the officer shall
17 take the accused before a magistrate of any other county nearer or more accessible
18 than the magistrate issuing the warrant, and said magistrate shall ~~admit the accused~~
19 ~~to amend the bail and take bail from of the accused accordingly.~~