

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; or the United States customs and border
11 protection who is authorized to arrest, with or without a warrant, any individual for a
12 violation of the United States Code and carry a firearm in the performance of the
13 employee's duties as a federal law enforcement officer. ~~The term does not include the~~
14 ~~bureau of Indian affairs police unless an agreement is in effect between the state and~~
15 ~~the bureau of Indian affairs relating to the reciprocal jurisdiction of state and bureau of~~
16 ~~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 3. Any agreement entered under this section relating to reciprocal jurisdiction between a
2 public agency and a tribal government must be made pursuant to chapter 54-40.2.

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

5 **29-06-15. Arrest without warrant - Peace officer - ~~Officer in the United States customs~~**
6 **~~and border protection~~Federal agent.**

- 7 1. A law enforcement officer, without a warrant, may arrest a person:
- 8 a. For a public offense, committed or attempted in the officer's presence and for the
9 purpose of this subdivision, a crime must be deemed committed or attempted in
10 the officer's presence when what the officer observes through the officer's senses
11 reasonably indicates to the officer that a crime was in fact committed or
12 attempted in the officer's presence by the person arrested.
 - 13 b. When the person arrested has committed a felony, although not in the officer's
14 presence.
 - 15 c. When a felony in fact has been committed, and the officer has reasonable cause
16 to believe the person arrested to have committed it.
 - 17 d. On a charge, made upon reasonable cause, of the commission of a felony by the
18 party arrested.
 - 19 e. For the public offenses, not classified as felonies and not committed in the
20 officer's presence as provided for under section 29-06-15.1.
 - 21 f. On a charge, made upon reasonable cause, of driving or being in actual physical
22 control of a vehicle while under the influence of alcoholic beverages.
 - 23 g. For the offense of violating a protection order under section 14-07.1-06, an order
24 prohibiting contact under section 12.1-31.2-02, or for an assault involving
25 domestic violence under section 14-07.1-11.
 - 26 h. On a charge, made upon reasonable cause, of being under the influence of
27 volatile chemical vapors in violation of section 19-03.1-22.1.
- 28 2. ~~An officer of the United States customs and border protection~~A federal agent, without
29 a warrant, may arrest a person if all of the following circumstances exist:
- 30 a. The officer is on duty.
 - 31 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.