

Introduced by

Senators Schaible, Kessel

Representatives Heinert, Rohr

1 A BILL for an Act to create and enact a new section to chapter 29-06 of the North Dakota  
2 Century Code, relating to peace officers acting outside their jurisdiction; and to amend and  
3 reenact sections 11-15-03, 25-03.1-25, and 40-20-05 of the North Dakota Century Code,  
4 relating to duties of the sheriff, powers and duties of the chief of police and police officers, and  
5 detentions.

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

7 **SECTION 1. AMENDMENT.** Section 11-15-03 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **11-15-03. Duties of sheriff.**

- 10 1. The sheriff shall:
- 11 1. a. Preserve the peace.
- 12 2. b. Arrest and take before the nearest magistrate, or before the magistrate who  
13 issued the warrant, all persons who attempt to commit or who have committed a  
14 public offense.
- 15 3. c. Prevent and suppress all affrays, breaches of the peace, riots, and insurrections  
16 which may come to the sheriff's knowledge.
- 17 4. d. Attend each term of the district court held within the county; obey its lawful orders  
18 and directions; and act as crier thereof and make proclamation of the opening  
19 and adjournment of court and of any other matter under its direction.
- 20 5. e. Command the aid of as many inhabitants of the county as the sheriff may think  
21 necessary in the execution of the sheriff's duties.
- 22 6. f. Take charge of and keep the county jail and the prisoners therein.
- 23 7. g. Endorse upon all notices and process received by the sheriff for service the year,  
24 month, day, hour, and minute of reception, and issue therefor to the person

- 1 delivering it, on payment of the sheriff's fees, a certificate showing the names of  
2 the parties, the title of the paper, and the time of its reception.
- 3 ~~8.~~ h. Serve all process or notices in the manner prescribed by law.
- 4 ~~9.~~ i. Certify under the sheriff's hand upon each process or notice the time and manner  
5 of service, or if the sheriff fails to make service, the reasons for failure, and return  
6 the same without delay.
- 7 ~~10.~~ j. Perform such other duties as are required of the sheriff by law.
- 8 ~~44.~~ k. Enforce, personally or through deputies, all statutes defining traffic violations  
9 denominated noncriminal by section 39-06.1-02.
- 10 2. The sheriff maintains the powers under subsection 1 throughout the entire state during  
11 a transport or detention under section 3 of this Act.

12 **SECTION 2. AMENDMENT.** Section 25-03.1-25 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **25-03.1-25. Detention or hospitalization - Emergency procedure.**

- 15 1. When a peace officer, physician either in person or directing an emergency medical  
16 services professional, psychiatrist, physician assistant, psychologist, advanced  
17 practice registered nurse, or mental health professional has reasonable cause to  
18 believe that an individual is a person requiring treatment and there exists a serious risk  
19 of harm to that individual, others, or property of an immediate nature that  
20 considerations of safety do not allow preliminary intervention by a magistrate, the  
21 peace officer, physician either in person or directing an emergency medical services  
22 professional, psychiatrist, physician assistant, psychologist, advanced practice  
23 registered nurse, or mental health professional, using the screening process set forth  
24 in section 25-03.1-04, may cause the individual to be taken into custody and detained  
25 at a treatment facility as provided in subsection 3, and subject to section 25-03.1-26,  
26 except that if emergency conditions exist that prevent the immediate conveyance of  
27 the individual to a public treatment facility, a private facility that has adequate  
28 resources and capacity to hold that individual may hold the individual in anticipation of  
29 conveyance to a public treatment facility for up to twenty-three hours:
- 30 a. Without conducting an immediate examination required under section  
31 25-03.1-26; and

- 1           b. Without following notice and hearing requirements for a transfer to another  
2           treatment facility required under subsection 3 of section 25-03.1-34.
- 3       2. If a petitioner seeking the involuntary treatment of a respondent requests that the  
4       respondent be taken into immediate custody and the magistrate, upon reviewing the  
5       petition and accompanying documentation, finds probable cause to believe that the  
6       respondent is a person requiring treatment and there exists a serious risk of harm to  
7       the respondent, others, or property if allowed to remain at liberty, the magistrate may  
8       enter a written order directing that the respondent be taken into immediate custody  
9       and be detained as provided in subsection 3 until the preliminary or treatment hearing,  
10       which must be held no more than seven days after the date of the order.
- 11       3. Detention under this section may be:
  - 12       a. In a treatment facility where the director or superintendent must be informed of  
13       the reasons why immediate custody has been ordered. The facility may provide  
14       treatment that is necessary to preserve the respondent's life or to appropriately  
15       control behavior by the respondent which is likely to result in physical injury to  
16       self or to others if allowed to continue, but may not otherwise provide treatment to  
17       the respondent without the respondent's consent; or
  - 18       b. In a public or private facility in the community which is suitably equipped and  
19       staffed for the purpose. Detention in a jail or other correctional facility may not be  
20       ordered except in cases of actual emergency when no other secure facility is  
21       accessible, and then only for a period of not more than twenty-four hours and  
22       under close supervision.
- 23       4. Immediately upon being taken into custody, the individual must be advised of the  
24       purpose of custody, of the intended uses and possible effects of any evaluation that  
25       the individual undergoes, and of the individual's rights to counsel and to a preliminary  
26       or treatment hearing.
- 27       5. Upon arrival at a facility the peace officer, physician, physician assistant, psychiatrist,  
28       psychologist, advanced practice registered nurse, or mental health professional who  
29       conveyed the individual or who caused the individual to be conveyed shall complete  
30       an application for evaluation and shall deliver a detailed written report from the peace  
31       officer, physician, physician assistant, psychiatrist, psychologist, advanced practice

1 registered nurse, or the mental health professional who caused the individual to be  
2 conveyed. The written report must state the circumstances under which the individual  
3 was taken into custody. The report must allege in detail the overt act that constituted  
4 the basis for the beliefs that the individual is a person requiring treatment and that,  
5 because of that individual's condition, there exists a serious risk of harm to that  
6 individual, others, or property if the individual is not immediately detained.

7 6. A peace officer maintains the peace officer's power of arrest, detention, and transport,  
8 throughout the entire state during a transport or detention in accordance with this  
9 section.

10 **SECTION 3.** A new section to chapter 29-06 of the North Dakota Century Code is created  
11 and enacted as follows:

12 **Peace officers acting outside geographic jurisdiction.**

13 1. As used in this section, "peace officer" means a salaried public servant employed by a  
14 criminal justice agency of the state or a political subdivision, ~~or employed by the North-~~  
15 ~~Dakota stockmen's association or a railroad,~~ to enforce the law or to conduct or  
16 engage in investigations or prosecutions for violations of law.

17 2. If a peace officer is transporting an individual who is under arrest or is being detained  
18 under chapter 25-03.1, the peace officer's authority extends throughout the entire  
19 state, as follows:

20 a. After arrest, until the individual is delivered into the custody of the nearest jail,  
21 regional corrections center or correctional facility as defined by chapter 12-44.1,  
22 including while the individual is being treated for a medical condition or infirmity;

23 b. While an individual is being detained during pretrial, in any jail, regional  
24 corrections center or correctional facility and, is being transported for treatment  
25 for a medical condition or other physical or mental infirmity that occurred while  
26 the individual was in custody;

27 c. While the peace officer is detaining an individual under chapter 25-03.1 and the  
28 individual is being transported to a treatment facility for evaluation or treatment;

29 d. While the peace officer is detaining or transporting an individual pursuant to an  
30 order issued by the district court; and

1           e. While the peace officer is transporting an individual convicted under chapter  
2           12.1-32 to a jail, regional corrections center, or correctional facility to serve a term  
3           of confinement as ordered by the district court.

4           **SECTION 4. AMENDMENT.** Section 40-20-05 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **40-20-05. Chief of police and police officers - Powers and duties - Hot pursuit.**

- 7           1. The chief of police shall perform duties prescribed by the governing body for the  
8           preservation of the peace. The chief of police may administer oaths to police officers  
9           under the chief's supervision. Within the city limits, and for a distance of one and  
10          one-half miles [2.41 kilometers] in all directions outside the city limits, the police  
11          officers of the city shall perform the duties and exercise the powers of peace officers  
12          as defined and prescribed by the laws of this state.
- 13          2. A police officer in "hot pursuit" may continue beyond the one and one-half mile [2.41  
14          kilometers] limit to make an arrest, in obedience to a warrant or without a warrant  
15          under the conditions of section 29-06-15, if obtaining the aid of peace officers having  
16          jurisdiction beyond that limit would cause a delay permitting escape. As used in this  
17          subsection, "hot pursuit" means the immediate pursuit of an individual endeavoring to  
18          avoid arrest. The jurisdiction limits in subsection 1 do not apply to a police officer  
19          acting pursuant to a joint powers agreement with another jurisdiction.
- 20          3. Police officers shall serve and execute any warrant, writ, process, order, or notice  
21          issued by a municipal judge within the city in any civil or criminal action or proceeding  
22          for or on account of a violation of any city ordinance or in any action or proceeding in  
23          which the city is a party or is interested beneficially. The police, within the limits  
24          prescribed in this section, may serve and execute all writs and process issued by  
25          justices in civil actions. In addition to the duties set out in this section, the police shall  
26          perform such other duties as may be prescribed by ordinance or statute.
- 27          4. A police officer maintains the powers under this section throughout the entire state  
28          during a transport or detention under section 3 of this Act.