



# Hettinger County Sheriff's Office

Sheriff Sarah D. Warner

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03/20/2023

House Judiciary Committee  
North Dakota State Capitol  
600 East Boulevard  
Bismarck, ND 58505

RE: Testimony in support of Senate Bill 2286

Dear Honorable members of the House Judiciary Committee,

My name is Kyle Christenson. I am Chief Deputy with Hettinger County Sheriff's Office and I support the proposed changes to North Dakota Century Code related to SB 2286. Prior to submitting this proposal, I met with North Dakota Attorney General Drew Wrigley and Deputy Attorney General Claire Ness to discuss this issue and they voiced their support of this Bill, and the goals it aims to accomplish, as it will allow Peace Officers to do our job with the civil protection we need.

## **Proposed amendment granting Peace Officer powers of arrest during transports outside "home" jurisdiction**

- Currently, North Dakota Century Code (NDCC) only allows Peace Officers to have powers of arrest within the political subdivision for which they are employed. For the purposes of this document, these will be called their 'home' jurisdiction. e.g.:
  - A Mandan Police Officer has jurisdiction only in the city of Mandan, but may need to maintain custody of an arrestee who is being treated in the Emergency Department of Sanford Medical Center in Bismarck.
  - A Cass County Sheriff's Deputy has jurisdiction only in Cass County, but may have to transport an inmate back to Fargo from the Ward County Jail in Minot.
- NDCC currently has no provision allowing a Peace Officer to retain the "home" jurisdiction authority while they conduct transports of any detainee who is in that Peace Officer's custody, care, or control while in 'foreign' jurisdictions. The simple act of having someone in their custody is not sufficient legal coverage. The Peace Officer is conducting that person, in essence, as a private citizen. This brings with it many legal grey areas which could be remedied by the passage of SB 2286.
- Should either of the two above-mentioned Peace Officers have to take enforcement action in a 'foreign' jurisdiction (to protect the safety of themselves, the detainee, or others for example), they may not be able to legally act under NDCC. Any action taken by that Peace Officer would technically be done as a private citizen only, and just *hope* the detainee cooperates. Good faith qualified immunity *may* protect the officer to an extent, but that does not protect officers or political subdivisions from civil liability.
- North Dakota often has few community resources and those resources frequently lie in the major population centers. Peace Officers in rural jurisdictions must often transport detainees into a 'foreign' jurisdiction. e.g.:
  - Transport a detainee to or from a jail
  - Transport a detainee to or from court
  - Transport a detainee to or from a hospital (mental health evaluation, medical clearance, etc.)
- Should the Peace Officer need to take enforcement action while in a 'foreign' jurisdiction, they and the political subdivision with whom that Peace Officer is employed, may be held civilly liable.



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- SB 2286's proposed changes to NDCC remedy this shortfall by granting Peace Officers statewide jurisdiction and powers of arrest under specific conditions, such as those examples listed above.
- Allowing this lack of clarity in NDCC leaves political subdivisions and, through no fault of their own, individual Peace Officers open to unnecessary civil liability.
- This proposal only extends such legal protections to Peace Officers for the purposes of detainee transports to or between facilities which may lie in a 'foreign' jurisdiction. **SB 2286 does not grant Peace Officers *carte blanche* jurisdiction for all purposes, at all times.**
- With the increased incidence of mental health-related calls, Peace Officers are more often transporting individuals to a hospital for purposes of mental health evaluations from a physician. If that hospital does not lie in their 'home' jurisdiction, they face the same legal risks as any other transport.
- SB 2286's proposed language, drafted by Attorney Patrick Merriman of the Hettinger County State's Attorney's Office, modified existing NDCC with the addition of applicable language taken directly from the state statutes of California and Florida. Both states have provisions which provide the legal protections we seek to adopt in North Dakota. These protections will allow Peace Officers to have the legal protections relating to the care, custody, and control of an individual for the duration that individual is in their custody.
- The proposed amendment to NDCC will reduce the potential of unnecessary civil liability for political subdivisions and individual Peace Officers.

This Bill is supported by the North Dakota Attorney General's Office, was voted unopposed "Do Pass" in the Senate Judiciary Committee, and passed unopposed on the Senate floor. A member of the Senate Judiciary Committee, I believe it was Senator Larson, Chair of the Committee, stated after their SB 2286 hearing that the Bill is "a no-brainer". With such strong support, I trust the House Judiciary Committee will agree that SB 2286 represents a positive change.

Passage of this Bill will help Peace Officers such as myself do our jobs with the same civil protections offered to our peers in other states. I respectfully recommend you vote "Do Pass" on this Bill.

Respectfully,

A handwritten signature in black ink, appearing to read "K.C.", with a long horizontal flourish extending to the right.

Kyle Christenson  
Chief Deputy  
Hettinger County Sheriff's Office