

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1613

Introduced by

Representatives Hendrix, Christianson, Koppelman, VanWinkle, Toman

Senators Castaneda, Magrum, Paulson

1 A BILL ~~for an Act to create and enact a new section to chapter 29-01 of the North Dakota~~  
2 ~~Century Code, relating to law enforcement use of a drone or robot;~~for an Act to amend and  
3 reenact sections 29-29.4-01, 29-29.4-02, 29-29.4-03, 29-29.4-04, 29-29.4-05, and 29-29.4-06 of  
4 the North Dakota Century Code, relating to law enforcement use of a robot.

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

6 ~~SECTION 1. A new section to chapter 29-01 of the North Dakota Century Code is created~~  
7 ~~and enacted as follows:~~

8 ~~Use of drones and robots.~~

9 ~~1. A law enforcement officer may not use a drone or robot to:~~

10 ~~a. Issue or serve an arrest warrant or summons in lieu of a warrant upon complaint~~  
11 ~~under Rule 4 of the North Dakota Rules of Criminal Procedure;~~

12 ~~b. Take an individual into custody in the manner authorized by law to answer for the~~  
13 ~~commission of an offense;~~

14 ~~c. Conduct hostage negotiations;~~

15 ~~d. Manage traffic;~~

16 ~~e. Gather evidence of a crime without a warrant; or~~

17 ~~f. Monitor public events without a warrant.~~

18 ~~2. This section does not apply to the use of a drone or robot for search and rescue of a~~  
19 ~~missing individual, disposal of a bomb, or crime scene analysis.~~

1       **SECTION 1. AMENDMENT.** Section 29-29.4-01 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **29-29.4-01. Definitions.**

4       As used in this chapter:

- 5       1. "Flight data" means imaging or other observation recording.
- 6       2. "Flight information" means flight duration, flight path, and mission objective.
- 7       3. "Law enforcement agency or agents" has the meaning provided for law enforcement  
8       officer in section 12.1-01-04.
- 9       4. "Robot" means an artificial object or system that senses, processes, and acts using  
10 technology. The term includes the associated elements, communication links, and  
11 associated artificial intelligence technologies.
- 12 5. "Unmanned aerial vehicle" means any aerial vehicle that is operated without the  
13 possibility of direct human intervention within or on the aerial vehicle. The term does  
14 not include satellites.
- 15 5.6. "Unmanned aerial vehicle system" means an unmanned aerial vehicle and associated  
16 elements, including communication links and the components that control the  
17 unmanned aerial vehicle, which are required for the pilot in command to operate safely  
18 and efficiently in state airspace.

19       **SECTION 2. AMENDMENT.** Section 29-29.4-02 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21       **29-29.4-02. Limitations on use of unmanned aerial vehicle ~~systems~~systems and**  
22 **robots.**

- 23       1. Information obtained from an unmanned aerial vehicle or robot is not admissible in a  
24 prosecution or proceeding within the state unless the information was obtained:
  - 25       a. Pursuant to the authority of a search warrant; or
  - 26       b. In accordance with exceptions to the warrant requirement.
- 27       2. Information obtained from the operation of an unmanned aerial vehicle or robot may  
28 not be used in an affidavit of probable cause in an effort to obtain a search warrant,  
29 unless the information was obtained under the circumstances described in subdivision  
30 a or b of subsection 1 or was obtained through the monitoring of public lands or  
31 international borders.

1       **SECTION 3. AMENDMENT.** Section 29-29.4-03 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **29-29.4-03. Warrant requirements.**

4       A warrant for the use of an unmanned aerial vehicle or robot must satisfy the requirements  
5 of the Constitution of North Dakota. In addition, the warrant must contain a data collection  
6 statement that includes:

- 7       1. The persons that will have the power to authorize the use of the unmanned aerial  
8       vehicle or robot;
- 9       2. The locations in which the unmanned aerial vehicle system or robot will operate;
- 10      3. The maximum period for which the unmanned aerial vehicle system or robot will  
11      operate in each flight; and
- 12      4. Whether the unmanned aerial vehicle system or robot will collect information or data  
13      about individuals or groups of individuals, and if so:
  - 14      a. The circumstances under which the unmanned aerial vehicle system or robot will  
15      be used; and
  - 16      b. The specific kinds of information or data the unmanned aerial vehicle system or  
17      robot will collect about individuals and how that information or data, as well as  
18      conclusions drawn from that information or data, will be used, disclosed, and  
19      otherwise handled, including:
    - 20      (1) The period for which the information or data will be retained; and
    - 21      (2) Whether the information or data will be destroyed, and if so, when and how  
22      the information or data will be destroyed.

23      **SECTION 4. AMENDMENT.** Section 29-29.4-04 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25      **29-29.4-04. Exceptions.**

26      This chapter does not prohibit any use of an unmanned aerial vehicle or robot for  
27 surveillance during the course of:

- 28      1. Patrol of national borders. The use of an unmanned aerial vehicle or robot to patrol  
29      within twenty-five miles [40.23 kilometers] of a national border, for purposes of policing  
30      that border to prevent or deter the illegal entry of any individual, illegal substance, or  
31      contraband.

- 1 | 2. Exigent circumstances. The use of an unmanned aerial vehicle or robot by a law  
2 | enforcement agency is permitted when exigent circumstances exist. For the purposes  
3 | of this subsection, exigent circumstances exist when a law enforcement agency  
4 | possesses reasonable suspicion that absent swift preventative action, there is an  
5 | imminent danger to life or bodily harm.
- 6 | 3. An environmental or weather-related catastrophe. The use of an unmanned aerial  
7 | vehicle or robot by state or local authorities to preserve public safety, protect property,  
8 | survey environmental damage to determine if a state of emergency should be  
9 | declared, or conduct surveillance for the assessment and evaluation of environmental  
10 | or weather-related damage, erosion, flood, or contamination.
- 11 | 4. Research, education, training, testing, or development efforts undertaken by or in  
12 | conjunction with a school or institution of higher education within the state and its  
13 | political subdivisions, nor to public and private collaborators engaged in mutually  
14 | supported efforts involving research, education, training, testing, or development  
15 | related to unmanned aerial vehicle systems ~~or~~, unmanned aerial vehicle system  
16 | technologies, or robot and potential applications.

17 | **SECTION 5. AMENDMENT.** Section 29-29.4-05 of the North Dakota Century Code is  
18 | amended and reenacted as follows:

19 | **29-29.4-05. Prohibited use.**

- 20 | 1. A law enforcement agency may not authorize the use of, including granting a permit to  
21 | use, an unmanned aerial vehicle or robot armed with any lethal weapons.
- 22 | 2. This chapter prohibits any use of an unmanned aerial vehicle or robot for:
  - 23 | a. Domestic use in private surveillance. A law enforcement agency may not  
24 | authorize the use of, including granting a permit to use, an unmanned aerial  
25 | vehicle or robot to permit any private person to conduct surveillance on any other  
26 | private person without the express, informed consent of that other person or the  
27 | owner of any real property on which that other private person is present.
  - 28 | b. Surveillance of the lawful exercise of constitutional rights, unless the surveillance  
29 | is otherwise allowed under this chapter.

30 | **SECTION 6. AMENDMENT.** Section 29-29.4-06 of the North Dakota Century Code is  
31 | amended and reenacted as follows:

1 | **29-29.4-06. Documentation of unmanned aerial vehicle or robot use.**

- 2 | 1. The person authorized to conduct the surveillance under this chapter shall document  
3 | all use of an unmanned aerial vehicle or robot for surveillance. The person shall  
4 | document all surveillance flights as to duration, flight path, and mission objectives.
- 5 | 2. The flight information must be verified as accurate and complete by the supervising  
6 | person authorized by a court to conduct the surveillance.
- 7 | 3. The flight information required under this section must be retained for five years.
- 8 | 4. Any imaging or any other forms of data lawfully obtained under this chapter which are  
9 | not accompanied by a reasonable and articulable suspicion that the images or data  
10 | contain evidence of a crime, or are relevant to an ongoing investigation or trial, may  
11 | not be retained for more than ninety days.
- 12 | 5. Except for the operational capabilities of the unmanned aerial vehicle system or robot  
13 | and other operational information strictly related to the technical conduct and physical  
14 | security of the surveillance operation, a person accused of a crime that includes  
15 | evidence gathered through the use of an unmanned aerial vehicle system or robot  
16 | surveillance may obtain all information relating to the person acquired in the course of  
17 | the surveillance through subpoena and discovery proceedings available in criminal  
18 | proceedings.
- 19 | 6. Any other person that has an interest in obtaining the documentation required by this  
20 | section may obtain that documentation pursuant to chapter 44-04.