

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 312

HOUSE BILL NO. 1418

(Representatives Klemin, Karls, Lefor, Louser, Schneider)
(Senators Dwyer, Larson, Sickler)

AN ACT to amend and reenact section 29-06-15 of the North Dakota Century Code, relating to arrests without a warrant for harassing a public safety agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³² **SECTION 1. AMENDMENT.** Section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

29-06-15. Arrest without warrant - Peace officer - Federal agent.

1. A law enforcement officer, without a warrant, may arrest a person:
 - a. For a public offense, committed or attempted in the officer's presence and for the purpose of this subdivision, a crime must be deemed committed or attempted in the officer's presence when what the officer observes through the officer's senses reasonably indicates to the officer that a crime was in fact committed or attempted in the officer's presence by the person arrested.
 - b. When the person arrested has committed a felony, although not in the officer's presence.
 - c. When a felony in fact has been committed, and the officer has reasonable cause to believe the person arrested to have committed it.
 - d. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested.
 - e. For the public offenses, not classified as felonies and not committed in the officer's presence as provided for under section 29-06-15.1.
 - f. On a charge, made upon reasonable cause, of driving or being in actual physical control of a vehicle ~~while under the influence of alcoholic beverages~~ in violation of section 39-08-01.
 - g. For the offense of violating a protection order under section 14-07.1-06, an order prohibiting contact under section 12.1-31.2-02, or for an assault involving domestic violence under section 14-07.1-11.

¹³² Section 29-06-15 was also amended by section 15 of House Bill No. 1489, chapter 145.

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- h. On a charge, made upon reasonable cause, of being under the influence of volatile chemical vapors in violation of section 19-03.1-22.1.
 - i. For the offense of harassing a public safety agency or making a false report to a public safety agency under subsection 4 of section 12.1-17-07.
2. A federal agent, without a warrant, may arrest a person if all of the following circumstances exist:
- a. The officer is on duty.
 - b. One or more of the following situations exist:
 - (1) The person commits an assault or other crime, defined and punishable under chapter 12.1-17, against the officer or against any other person in the presence of the officer.
 - (2) The officer has reasonable cause to believe that a crime, as defined in paragraph 1, has been committed and reasonable cause to believe that the person to be arrested has committed it.
 - (3) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person to be arrested has committed it.
 - (4) The officer has received positive information from an authoritative source that a peace officer holds a warrant for the person's arrest.
3. If a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court of this state which requires the individual to participate in the twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31, the law enforcement officer may immediately take the individual into custody without a warrant. An individual taken into custody under this subsection may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 313

HOUSE BILL NO. 1299

(Representative Koppelman)

AN ACT to amend and reenact section 29-06-22 of the North Dakota Century Code, relating to when a private person may break into a building to make an arrest.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-06-22 of the North Dakota Century Code is amended and reenacted as follows:

29-06-22. When a private person may break into a building.

A private person, in order to make an arrest when a felony was committed in the arresting person's presence, as authorized in section 29-06-20, if the person is refused admittance after the person has announced the person's purpose and the person reasonably believes an individual inside is at imminent risk of serious bodily injury or death, may break open a door or window of any building in which the person to be arrested is, or is reasonably believed to be.

Approved March 26, 2025

Filed March 27, 2025

CHAPTER 314

SENATE BILL NO. 2056

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact section 29-06.1-02 of the North Dakota Century Code, relating to tribal arrest warrants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

29-06.1-02. Arrest with or without warrant.

1. A peace officer may arrest a person subject to a tribal arrest warrant if presented with the warrant and may arrest a person without a tribal arrest warrant upon probable cause to believe that the person is the subject of such a warrant. An arrest is authorized under this subsection only if the arrest warrant is issued for commission of a crime punishable as a misdemeanor under the applicable tribal ordinance or resolution.
2. The arrested person may waive the right to appear before a judge and consent to transfer of custody to the applicable tribal authority by executing a written waiver in the presence of a peace officer or correctional officer. Before executing a written waiver, the arrested person must be informed of the name of the tribe that issued the arrest warrant, the right to assistance of counsel, and the right to appear before a district judge before transfer of custody to the applicable tribal authority. If a waiver is executed, the court shall issue an order transferring custody of the arrested person to the applicable tribal authority or, with the consent of the applicable tribal authority, authorize the voluntary return of the arrested person to the applicable tribal authority.
3. If the arrested person does not waive appearance before a judge under subsection 2, the arrested person must be brought without unnecessary delay before the nearest available district judge.
- ~~3-4.~~ The district judge shall issue an order continuing custody upon presentation of the tribal arrest warrant or, if the arrest is made without a warrant, upon testimony or affidavit showing probable cause to believe the person is the subject of such a warrant.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 315

HOUSE BILL NO. 1047

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to create and enact a new section to chapter 29-22 of the North Dakota Century Code, relating to juror counseling.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 29-22 of the North Dakota Century Code is created and enacted as follows:

Juror counseling following graphic evidence or testimony.

1. The court shall offer, not more than ten hours of post-trial psychological counseling, without charge, to a juror or alternate juror who served on a trial jury in a trial involving extraordinarily graphic, gruesome, or emotional evidence or testimony.
2. The counseling offered under subsection 1 applies only to a juror or alternate juror who served on a trial jury for a trial involving the following offenses:
 - a. Murder under section 12.1-16-01;
 - b. Manslaughter under section 12.1-16-02;
 - c. Negligent homicide under section 12.1-16-03;
 - d. Felony-level assault or domestic violence under chapter 12.1-17;
 - e. A sexual offense under chapter 12.1-20 or 12.1-27.2;
 - f. Abuse or neglect of a child under sections 14-09-22 and 14-09-22.1; and
 - g. Others as determined by the court.
3. The counseling offered under this section:
 - a. Must occur not later than one hundred eighty days after the jury is discharged;
 - b. May be provided by the court system, by a state agency, or by contract; and
 - c. May be individual or group counseling.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 316

SENATE BILL NO. 2167

(Senators Myrdal, Larson, Luick)
(Representatives Christianson, Hatlestad, Steiner)

AN ACT to create and enact a new section to chapter 29-26 and a new section to chapter 54-12 of the North Dakota Century Code, relating to the cost of digital forensic examinations and the establishment of an internet crime investigation fund; to provide a continuing appropriation; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 29-26 of the North Dakota Century Code is created and enacted as follows:

Cost of digital forensic examination.

An individual convicted of a felony or misdemeanor shall, as part of the sentence imposed by the court, pay for the reimbursement of the cost of any digital forensic examination performed on any personal electronic device in the investigation and prosecution of the crime for which the defendant is convicted. The fee assessed may not exceed one hundred dollars for each defendant. All fees collected under this section must be remitted to the state treasurer for deposit in the internet crimes investigation fund established in section 2 of this Act. For purposes of this section, the term "personal electronic device" means any portable electronic device designed for and capable of wireless communication or electronic data retrieval, including a cellular telephone, tablet, laptop, computer, or two-way messaging device.

SECTION 2. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Internet crimes investigation fund - Continuing appropriation.

The internet crimes investigation fund is a special fund established in the state treasury. The fund consists of all fees imposed pursuant to section 1 of this Act, which are appropriated to the attorney general on a continuing basis for information technology hardware, software licensing, digital forensic training, and internet safety presentations to assist law enforcement entities and organizations dedicated to preventing technology-facilitated child sexual exploitation and internet crimes against children. Interest earned on moneys in the fund must be credited to the fund.

Approved March 20, 2025

Filed March 20, 2025

CHAPTER 317

HOUSE BILL NO. 1613

(Representatives Hendrix, Christianson, Koppelman, VanWinkle, Toman)
(Senators Castaneda, Magrum, Paulson)

AN ACT to amend and 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 the North Dakota Century Code, relating to law enforcement use of a robot.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

29-29.4-01. Definitions.

As used in this chapter:

1. "Autonomously" means to operate or govern itself without direct human control.
2. "Flight data" means imaging or other observation recording.
- 2-3. "Flight information" means flight duration, flight path, and mission objective.
- 3-4. "Law enforcement agency or agents" has the meaning provided for law enforcement officer in section 12.1-01-04.
- 4-5. "Less than lethal weapon" means a designed and manufactured object, substance, or weapon that does not create a substantial risk of serious bodily injury or death when used by an individual with proper training.
6. "Lethal weapon" means an object, substance, or device designed to cause serious bodily injury or death.
7. "Remotely" means directly controlled by human action and decisions.
8. "Robot" means a powered artificial machine or system that upon activation will operate in whole or in part autonomously to perform physical tasks or decisionmaking without real-time human control. The term includes a system capable of using force, conducting surveillance, or moving independent of direct human input. The term does not include a law enforcement body-worn camera, a law enforcement in-car camera or license plate reader, or any other law enforcement camera that does not require a search warrant.
9. "Unmanned aerial vehicle" means any aerial vehicle that is operated without the possibility of direct human intervention within or on the aerial vehicle. The term does not include satellites.
- 5-10. "Unmanned aerial vehicle system" means an unmanned aerial vehicle and associated elements, including communication links and the components that control the unmanned aerial vehicle, which are required for the pilot in command to operate safely and efficiently in state airspace.

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

29-29.4-02. Limitations on use of unmanned aerial vehicle systems and robots.

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

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

29-29.4-03. Warrant requirements.

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

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

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

29-29.4-04. Exceptions.

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

1. Patrol of national borders. The use of an unmanned aerial vehicle or robot to patrol within twenty-five miles [40.23 kilometers] of a national border, for purposes of policing that border to prevent or deter the illegal entry of any individual, illegal substance, or contraband.
2. Exigent circumstances. The use of an unmanned aerial vehicle or robot by a law enforcement agency is permitted when exigent circumstances exist. For the purposes of this subsection, exigent circumstances exist when a law enforcement agency possesses reasonable suspicion that absent swift preventative action, there is an imminent danger to life or bodily harm.
3. An environmental or weather-related catastrophe. The use of an unmanned aerial vehicle or robot by state or local authorities to preserve public safety, protect property, survey environmental damage to determine if a state of emergency should be declared, or conduct surveillance for the assessment and evaluation of environmental or weather-related damage, erosion, flood, or contamination.
4. Research, education, training, testing, or development efforts undertaken by or in conjunction with a school or institution of higher education within the state and its political subdivisions, nor to public and private collaborators engaged in mutually supported efforts involving research, education, training, testing, or development related to unmanned aerial vehicle systems ~~or~~, unmanned aerial vehicle system technologies, or robot and potential applications.

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

29-29.4-05. Prohibited use - Exceptions.

1. A law enforcement agency may not authorize the use of, including granting a permit to use, an unmanned aerial vehicle armed with any lethal weapons.
2. This chapter prohibits any use of an unmanned aerial vehicle or robot for:
 - a. Domestic use in private surveillance. A law enforcement agency may not authorize the use of, including granting a permit to use, an unmanned aerial vehicle or robot to permit any private person to conduct surveillance on any other private person without the express, informed consent of that other person or the owner of any real property on which that other private person is present.
 - b. Surveillance of the lawful exercise of constitutional rights, unless the surveillance is otherwise allowed under this chapter.
3. A law enforcement agency may not authorize the use of a robot to deploy a lethal weapon, unless the weapon is controlled remotely, cannot be activated autonomously, and is used to:
 - a. Neutralize an inanimate object at risk of exploding or causing an immediate threat to public safety or property; or

- b. Prevent an imminent and substantial risk of serious bodily injury or death to a law enforcement officer or another individual, in a circumstance where the use of lethal force by an officer would be legally justified.
- 4. A law enforcement agency may not authorize the use of an unmanned aerial vehicle or robot to deploy a less than lethal weapon, unless the weapon is controlled remotely and cannot be activated autonomously.
- 5. A law enforcement agency, before authorizing any use of force, shall adopt a policy on the use of force by an unmanned aerial vehicle or robot, which includes the individuals with authority to authorize the use of force by an unmanned aerial vehicle or robot.

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

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

1. The person authorized to conduct the surveillance under this chapter shall document all use of an unmanned aerial vehicle or robot for surveillance. The person shall document all surveillance flights as to duration, flight path, and mission objectives.
2. The flight information must be verified as accurate and complete by the supervising person authorized by a court to conduct the surveillance.
3. The flight information required under this section must be retained for five years.
4. Any imaging or any other forms of data lawfully obtained under this chapter which are not accompanied by a reasonable and articulable suspicion that the images or data contain evidence of a crime, or are relevant to an ongoing investigation or trial, may not be retained for more than ninety days.
5. Except for the operational capabilities of the unmanned aerial vehicle system or robot and other operational information strictly related to the technical conduct and physical security of the surveillance operation, a person accused of a crime that includes evidence gathered through the use of an unmanned aerial vehicle system or robot surveillance may obtain all information relating to the person acquired in the course of the surveillance through subpoena and discovery proceedings available in criminal proceedings.
6. A law enforcement agency deploying a robot armed with a lethal weapon shall document the requirements provided in section 29-29.4-05.
7. Any other person that has an interest in obtaining the documentation required by this section may obtain that documentation pursuant to chapter 44-04.

Approved April 28, 2025

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