

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1062

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1062

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1062

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date 1-18-01

Tape Number	Side A	Side B	Meter #
1	xx		3710 to end
1		xx	39-1090
Committee Clerk Signature <i>Ken Olson</i>			

Minutes: Chair Froseth open the hearing on HB 1062 with all members present except Rep. Kretschmar.

Rep. Carlisle, Dist 30, Bismarek, ND : I am in support of HB1062. (See Attached Testimony)

Purpose of this bill is to give an officer the authority to continue a pursuit that has started in his jurisdiction and proceeded into another; and also the authority to make an arrest in said area.

John Olson, ND States Attorney Assoc./ND Peace Officers Assoc. : (3924) testified in support of HB1062. This bill relates directly to the officers arrest powers, especially when county lines are involved. If you are a sheriff in Burleigh County and are chasing an individual and he goes across the bridge into Morton County, you don't have the power to arrest. DUI's have gotten off in court because they did not have the authority to arrest. If you cross deputize, then you can arrest across county lines.

Rep. Eckre : (4347) If you pursue into a different county, where does the officer take the offender once arrested?

John Olson : Take him back to the original county where the chase started.

Rep. Ekstrom : (4515) Under law, if you are in pursuit and the offender fails to stop and goes into the other county, isn't it an automatic resisting arrest?

John : I suppose it could if the chase is long enough. It might be left to the discretion of the officer. There are laws on resisting arrest and separate provisions than these. You must have sufficient evidence to make the arrest.

Rep. Grosz : (4750) on line 9 and 10, could you explain *delay permitting escape*?

John : That language bothered me a bit, too. There is a section of law in municipal code that gives police officers the same kind of power to go beyond their jurisdiction. They call it *hot pursuit*. They are able to go beyond their jurisdiction in to another. The situation really has to be immediate. You may not have time to stop and call somebody in the other jurisdiction to make that stop. You don't want the offender to escape. That is a qualifier when you go into another jurisdiction.

Rep. Delmore : (4985) Will this encourage high speed pursuits?

John : I don't think so. That's a whole separate issue.

Rep. N. Johnson : Is there agreement in the groups you represent that they are willing to allow that jurisdiction change?

John : Yes. The police officers are greatly behind this bill.

Pat Heinert, Deputy Sheriff in Burleigh County : (5167) I am here in support of this bill.

Rep. Herbel : (5240) How often does this sort of thing happen?

Pat : The main issue is whether you have two major cities adjoining county lines. This is where most of the problems arise, and the reason we need this bill. Burleigh/Morton have bridges that separate county lines and we have a big problem with that.

Rep. Disrud : What about state lines. MN and ND.

Pat : There is a section of law right now where we can grant another deputy sheriff authority to come into our county. They may call in advance. It's called a one time authority. They have to call each time. We use to cross deputize before that law. I'm not sure about the state lines.

Rep. Jerbel : (5925) How would this apply when transporting a prisoner to Fargo and you encounter a violation in another county.

Pat : We would have to call ahead and contact one of their deputies. This bill talks only about fresh pursuit.

Rep. Maragos : (6120) I know that in the law, specificity is quite important.. In this law, does the fact that you arrest the individual outside your jurisdiction, change the basic ramification of the DUI case? Does this bill make it technically considered that the arrest took place in Morton County even though the apprehension took place in Burleigh County? How does that work?

John Olson : The arrest gives the offense a jurisdictional home. That DUI case, I believe, could have been charged in either county.

Chair Froseth : (87) Could both counties prosecute for DUI?

John : No

Rep. Ekstrom : If an officer is hurt while pursuing a violation, aren't we opening a can of worms as far as workers comp goes with this bill.

John : I don't think so. If an officer is in pursuit and gets injured, he should get workers comp.

Rep. Niemeier : (435) I am thinking back to earlier times when people looked for sanctuary. Now we know that pursuit doesn't necessarily mean guilt in those cases. Sometimes pursuits results in accidents, death, etc. Do you know of anything in statue that allows for sanctuary for alleged perpetrator?

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House Political Subdivisions Committee
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Pat : Over the last few years the pursuit policies have changed tremendously in just about every agency in ND. We had two pursuits in year 2000. The city of Bismarek doesn't allow high speed pursuit by their officers. Only certain situations this is allowed. Safety factor is a must.

Rep. Niemeler : Is there any place for sanctuary in modern times?

John : I don't think so. Sometimes you may need a warrant. You are still safe in our own home.

Chair Froseth : Are you aware of any amendments to clarify *hot* and *fresh* pursuit?

John : We are comfortable to leave the language in.

Rep. Delmore : John, this bill won't just address bridge issues.

John : No.

Rep. Eckre : How do other states handle this?

Rep. Delmore : I have visited with people, and other states have passed similar bills. **I move a DO PASS** on HB1062.

Rep. N. Johnson : **I second.**

VOTE: 14 YES and 0 NO with 1 absent. BILL PASSED. Rep. Gunter will carry.

Date: 1-18-01
Roll Call Vote #: 6

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1062

House POLITICAL SUBDIVISIONS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Delmore Seconded By Rep. N. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	/		Rep. Wayne W. Tieman	/	
Vice-Chair Dale C. Severson	/				
Rep. Lois Delmore	/				
Rep. Rachael Disrud	/				
Rep. Bruce Eckre	/				
Rep. Mary Ekstrom	/				
Rep. April Fairfield	/				
Rep. Michael Grosz	/				
Rep. Jane Gunter	/				
Rep. Gil Herbel	/				
Rep. Nancy Johnson	/				
Rep. William E. Kretschmar					
Rep. Carol A. Niemeier	/				
Rep. Andrew G. Maragos	/				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Gunter

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 18, 2001 12:03 p.m.

Module No: HR-08-1203
Carrier: Gunter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1062: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1062 was placed on the Eleventh order on the calendar.

2001 SENATE POLITICAL SUBDIVISIONS

HB 1062

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1062

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
1	x		25.5-35.6
Committee Clerk Signature <i>Mary Jo Wooten</i>			

Minutes:

The hearing was opened on HB1062.

REP. RON CARLISLE: Introducing HB1062, on behalf of the North Dakota Peace Officers' Association. The purpose of the bill is to give a law enforcement officer the authority to continue a pursuit that started in his jurisdiction and proceeded into another jurisdiction, and also the authority to make an arrest in that jurisdiction. It happened, the situation in Burleigh and Morton county, when a deputy attempted to stop the individual crossing the bridge and the river is the county line. The deputy waits for a safe location to make the stop, but then he is another counties jurisdiction. Providing addition of jurisdiction under these circumstances will allow that officer to continue with the arrest. JOHN OLSON: Represents the States' Attorneys and the North Dakota Peace Officers' Association. I don't think there is a lot to add, to Rep. Carlisle testimony. arrest in the furthest jurisdiction and therefore if you don't have the arrest power you don't have jurisdiction over the offense and that's happened in a Morton County case. The fresh pursuit

provision is taken from existing law where we do have fresh pursuit authority for officers on either side of the state line. We have taken that same definition that you probably would have in Grand Forks and East Grand Forks. Police officers have this right now. There ordinances in the municipal code in Title 40, they call it "hot pursuit". We call it fresh pursuit, when we are out of the city. So there is a little bit different terminology. But that is basically what this is about. Its' particularly important in drunk driving cases where you know that's a particular offense where you have to have jurisdiction for that arrest in order to comply with the implied consent law in obtaining a breathalyzer test or blood test for a level of alcohol. Because if a basic arrest is void then evidence that comes about as a result of that invalid arrest is tainted and thrown out. That's basically the reason here. SENATOR LYSON: Isn't this really something that was inadvertently left out of law that the county officers' couldn't pursue into another county. And now were just trying to clean that up so that we've been doing it for years, be we got caught evidently. JOHN OLSON: That's probably the key question here. I think what has been done in past practices is cross deputyization between counties and that would give them the arrest authority and the pursuit authority. But obviously, that isn't always done and here we're really remedying that problem. SENATOR COOK: John, does this apply to police officers' too, I mean can the Bismarck police cross the river and arrest somebody and..JOHN OLSON: Senator Cook that is addressed by other sections of the code, which give this set of powers to police officers beyond their jurisdiction. They do have hot pursuit authority beyond the city limits and can pursue beyond those limits. Under these conditions, there is a little bit of a qualification here, which indicates that, that fresh pursuit or hot pursuit where if you stop at that point would enable escape of the offender. SENATOR FLAKOLL: Say if it is a long fresh pursuit, they are expected to back off then, say, if they go into another county and there's' three officers that are join the

pursuit. They aren't required to back off that, or are they? JOHN OLSON: I don't believe they are required to back off, obviously there becomes some practical considerations. If there are officers on the other end that can overtake that responsibility that probable would be done. But as long as there is fresh pursuit or hot pursuit circumstances going on where to back off would enable escape, then I think that the hot pursuit is provided. SENATOR FLAKOLL: And I trust that the law in the originating location applies. If we would jump across the...to a reference made earlier, if your originating in Grand Forks and your going to East Grand Forks, in the other case, and your DUI limit is .09, because of the differences in laws from where there were originating from versus where they were captured in, it goes back to the originating location, is that correct? JOHN OLSON: That's correct. Although, that situation wouldn't, is not even addressed by this statute because across state lines is already provided, beyond city limits is already provided, its just the sheriffs, the deputies that don't have that same authority under the code. Senator Lyson is right, it is more or less an oversight in our opinion, than anything else. SENATOR POLOVITZ: I wanted to make sure that I understood that there was a difference between county law officers and city officers. And I don't think our county can go across into East Grand Forks, but I am not sure. JOHN OLSON: I think they can, under the provision of 29:06:05 where a foreign peace officer can engage in fresh pursuit across the state line. SENATOR LYSON: The only they can't do is go into another county. PAT HEINERT: Deputy sheriff in Burleigh County. I also am part of the Executive Committee for North Dakota Peace Officers'. We urge you a Do Pass on this. As Rep. Carlisle stated, the way this came about, is a case that Morton County had with Burleigh County and one of Morton Counties Deputy Sheriffs, was following a individual one evening at about 1 am on I-94 inner city between Bismarck and Mandan, the actual two cities. Because of safety considerations and because of our training, what we don't want people to stop on the

Interstate on the curves coming into that and or on bridges. He waited until after he got across the bridge into Burleigh County, made the stop, arrested the individual and lost it in court because of the jurisdictional boundaries. That's why we're here today. He was one of the deputies that fell through the crack and was not cross-deputized at the time, as of yet. SENATOR COOK: Mr. Heinert, when did this deputy sheriff turn his lights on? PAT HEINERT: I can't answer this question exactly, Sir, I wasn't there and I didn't ask, I haven't talked to him directly. I just the information from their chief deputy over there. I would imagine he probably didn't turn his lights on until after he crossed the bridge simply because of safety considerations. SENATOR COOK: So Pat when was he in fresh pursuit then? Was he in for fresh pursuit, on the Morton side prior to turning his lights on, is that considered fresh pursuit? PAT HEINERT: Sir, in my mind it would be. As soon as he had enough evidence to stop the vehicle, probable cause to stop the vehicle he was just waiting for safety issues to make the stop.

Hearing Closed on HB1062.

Senator Lee moved for a Do Pass

Senator Polovitz- 2nd

Roll Call vote: 8 Yeas, 0 No, 0 Abs.

Carrier: Senator Lyson

Date: _____
Roll Call Vote #: _____

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *H. B 1062*

Senate	Political Subdivisions	Committee
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☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken No Pass

Motion Made By Sen. Lee Seconded By Sen. Palovitz

[illegible]

Total (Yes) 8 No 0

Absent 0

Floor Assignment Sen. Lupon

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 19, 2001 9:25 a.m.

Module No: SR-30-3829
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1062: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1062 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1062



Representative Ron Carlisle
District 30
P.O. Box 222
Bismarck, ND 58502-0222

NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Appropriations

TESTIMONIAL ON HB 1062 PREPARED BY REPRESENTATIVE RON CARLISLE

FOR THE RECORD MY NAME IS REPRESENTATIVE RON CARLISLE,
AND I WOULD LIKE TO INTRODUCE HB 1062 FOR YOUR
CONSIDERATION.

THE PURPOSE OF THIS BILL IS TO GIVE A LAW ENFORCEMENT
OFFICER THE AUTHORITY TO CONTINUE A PURSUIT THAT HAS
STARTED IN HIS JURISDICTION AND PROCEEDED INTO ANOTHER,
AND ALSO THE AUTHORITY TO MAKE AN ARREST IN THAT
JURISDICTION.

THIS BILL ARISES FROM A SITUATION IN BURLEIGH AND MORTON
COUNTIES WHEN, FOR EXAMPLE, A DEPUTY ATTEMPTS TO STOP AN
INDIVIDUAL CROSSING A BRIDGE, WHERE THE RIVER IS THE COUNTY
LINE. THE DEPUTY WAITS FOR A SAFE LOCATION TO MAKE THE STOP,
BUT IS THEN IN ANOTHER COUNTY'S JURISDICTION. PROVIDING

ADDITIONAL JURISDICTION UNDER THESE CIRCUMSTANCES WILL
ALLOW THAT OFFICER TO CONTINUE WITH THE ARREST.

JOHN OLSON, WHO REPRESENTS THE NORTH DAKOTA PEACE
OFFICERS ASSOCIATION AND THE NORTH DAKOTA STATES
ATTORNEYS ASSOCIATION, IS HERE TO TESTIFY.

THANK YOU.

hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state, or shall admit him to bail for such purpose. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

2. Notwithstanding the provisions of chapter 29-30.3 and subsection 1, a person arrested for a misdemeanor or traffic violation pursuant to section 29-06-05 may voluntarily return to the foreign state without a hearing before a magistrate.

Source: S.L. 1939, ch. 133, § 2; R.C. 1943, § 29-0606; S.L. 1991, ch. 345, § 3.

tion 3 of chapter 345, S.L. 1991, became effective March 26, 1991.

Effective Date.

The 1991 amendment of this section by sec-

29-06-07. Definition of fresh pursuit. As used in section 29-06-05, the term "fresh pursuit" shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed or who is reasonably suspected of having committed a felony, misdemeanor, or traffic violation. It also shall include the pursuit of a person suspected of having committed a supposed felony, misdemeanor, or traffic violation, though no felony, misdemeanor, or traffic violation has been actually committed, if there is reasonable ground for believing that a felony, misdemeanor, or traffic violation has been committed. Fresh pursuit, as the term is used in this chapter, shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

Source: S.L. 1939, ch. 133, § 5; R.C. 1943, § 29-0607; S.L. 1991, ch. 345, § 4.

tion 4 of chapter 345, S.L. 1991, became effective March 26, 1991.

Effective Date.

The 1991 amendment of this section by sec-

29-06-08. When arrest made for felony, misdemeanor, or infraction. An arrest for a felony, misdemeanor, or infraction may be made on any day and at any time of the day or night.

Source: C. Crim. P. 1877, § 116; R.C. 1895, § 7916; R.C. 1899, § 7916; R.C. 1905, § 9724; C.L. 1913, § 10560; R.C. 1943, § 29-0608; S.L. 1971, ch. 314, § 1; 1975, ch. 106, § 328.

29-06-09. How arrest made. An arrest is made by an actual restraint of the person of the defendant, or by his submission to the custody of the person making the arrest.