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Title.

Prepared by the Legislative Council
staff for Representative Hendrix
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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 create and
3 enact a new section to chapter 29-01 of the North Dakota Century Code, relating to law
4 enforcement use of drones and robots; to amend and reenact section 12-63-12 of the North
5 Dakota Century Code, relating to the actions of the peace officer standards and training board;
6 to provide a report; to provide a penalty; and to declare an emergency.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 **SECTION 1.** A new section to chapter 29-01 of the North Dakota Century Code is created-
9 and enacted as follows:
10 ~~**Use of drones and robots.**~~
11 ~~**1. A law enforcement officer may not use a drone or robot to:**~~
12 ~~**a. Issue or serve an arrest warrant or summons in lieu of a warrant upon complaint**~~
13 ~~**under Rule 4 of the North Dakota Rules of Criminal Procedure;**~~
14 ~~**b. Take an individual into custody in the manner authorized by law to answer for the**~~
15 ~~**commission of an offense;**~~
16 ~~**c. Conduct hostage negotiations;**~~
17 ~~**d. Manage traffic;**~~
18 ~~**e. Gather evidence of a crime without a warrant; or**~~
19 ~~**f. Monitor public events without a warrant.**~~

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

SECTION 1. AMENDMENT. Section 12-63-12 of the North Dakota Century Code is amended and reenacted as follows:

12-63-12. Adverse license action - Appeal.

1. The board shall deny a license, refuse to renew a license, suspend a license, revoke a license, or impose probationary conditions if the individual has been convicted or pled guilty or nolo contendere before a court of competent jurisdiction in any state, or before any court, of a felony offense.
2. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions if the individual:
 - a. Has been convicted or pled guilty or nolo contendere before a court of competent jurisdiction in any state, or before any court, of an offense involving domestic violence or violation of a domestic violence restraining order, an offense involving child abuse or neglect, an offense involving firearms under title 12.1 or title 62.1, or another criminal offense determined by the board to have a direct bearing upon an individual's ability to serve as a peace officer, or the board determines, following a conviction or adjudication, that the individual is not rehabilitated under section 12.1-33-02.1.
 - b. Has used unjustified deadly force in the performance of the duties as a peace officer as described in section 12.1-05-07 and section 2 of this Act.
 - c. Has made a false material statement under oath to the board.
 - d. Has made a false material statement to the board while obtaining or renewing a license or permit.
 - e. Has violated a provision of this chapter or a rule of the board.
3. Denial, refusal to renew, suspension, revocation, or imposition of probationary condition on a license may be ordered by the board after a hearing in accordance with chapter 28-32. An application for reinstatement may be made to the board one year from the date of the refusal to renew or the revocation of the license. The board may accept or reject an application for reinstatement and may hold a hearing to consider

1 the reinstatement. In the case of a denial of an application, the applicant may not
2 reapply for a period of one year from the date of the order of denial.

- 3 4. An appeal from the final decision of the board to refuse to issue, to not renew, to
4 suspend, or to revoke a license may be made to the district court. Venue is the county
5 in which the aggrieved individual resides. The appeal must be made within thirty days
6 from the service of the decision on the individual.

7 **SECTION 2.** A new section to chapter 29-01 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Use of drones and robots - Use of force - Report to legislative management - Penalty.**

10 1. As used in this section:

11 a. "Deadly force" means force which an individual uses with the intent of causing, or
12 which the actor knows creates a substantial risk of causing, death or serious
13 bodily injury.

14 b. "Drone" means an unmanned aerial vehicle operated remotely or autonomously,
15 without the possibility of direct human intervention. The term does not include a
16 satellite.

17 c. "Law enforcement officer" means a public servant authorized by law or by a
18 government agency or branch to enforce the law and to conduct or engage in
19 investigations or prosecutions for violations of law.

20 d. "Robot" means a remote operated or autonomous vehicle capable of performing
21 a task.

22 2. A law enforcement officer or agency may not use a drone or robot to:

23 a. Issue or serve an arrest warrant or summons in lieu of a warrant upon complaint
24 under rule 4 of the North Dakota Rules of Criminal Procedure; or

25 b. Take an individual into custody in the manner authorized by law to answer for the
26 commission of an offense.

27 3. A law enforcement officer or agency may not deploy a drone or robot to use deadly
28 force against an individual.

29 4. Subsection 3 does not apply if:

30 a. The use of deadly force is immediate and necessary to prevent imminent death
31 or serious bodily injury to an individual;

- 1 b. No reasonable alternative exists to prevent the threat other than the use of
- 2 deadly force; and
- 3 c. The decision to use deadly force by a drone or robot is authorized by a
- 4 supervising officer, unless exigent circumstances makes the authorization
- 5 unreasonable.
- 6 5. A use of deadly force by a drone or robot under this section must be reported to the
- 7 attorney general within twenty-four hours. The report must include:
- 8 a. A detailed description of the incident, including the circumstances justifying the
- 9 use of deadly force;
- 10 b. The type of drone or robot used by the law enforcement agency and the
- 11 operational capabilities of the device; and
- 12 c. The identity and role of all personnel involved in the decision to use deadly force.
- 13 6. Each law enforcement agency in the state shall publish and submit to the legislative
- 14 management an annual report summarizing all incidents involving the use of a drone
- 15 or robot in a law enforcement operation.
- 16 7. A law enforcement officer is liable for civil damages resulting in a violation of this
- 17 section.
- 18 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.