

**Sixty-sixth Legislative Assembly of North Dakota  
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1234  
(Representatives Roers Jones, Boschee, Satrom)  
(Senators Myrdal, Oban)

AN ACT to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota Century Code, relating to the authority of federal agents.

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

**SECTION 1. AMENDMENT.** Section 29-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

**29-06-05.2. Federal law enforcement officer - Authority to make arrests.**

1. "Federal agent" means an employee of the federal bureau of investigation; the federal drug enforcement administration; the bureau of alcohol, tobacco, firearms and explosives; the homeland security investigations unit of the department of homeland security; the bureau of Indian affairs police; or the United States customs and border protection who is authorized to arrest, with or without a warrant, any individual for a violation of the United States Code and carry a firearm in the performance of the employee's duties as a federal law enforcement officer.
2. A federal agent has the same authority and immunity as a peace officer in this state when making an arrest for a nonfederal crime if any of the following exist:
  - a. The federal agent has reasonable grounds to believe that a felony offense was committed and the individual arrested committed the offense.
  - b. The federal agent is rendering assistance to a peace officer in an emergency or at the request of the peace officer.
  - c. The federal agent is working as a part of a task force composed of North Dakota peace officers and federal law enforcement officers.
3. Any agreement entered under this section relating to reciprocal jurisdiction between a public agency and a tribal government must be made pursuant to chapter 54-40.2.

**SECTION 2. 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 - ~~Officer in the United States customs and border protection~~ 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.
  - 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.
  - 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.
2. ~~An officer of the United States customs and border protection~~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.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1234.

House Vote:      Yeas 71              Nays 21              Absent 2

Senate Vote:      Yeas 47              Nays 0              Absent 0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2019,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State