

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1234

Introduced by

Representatives Roers Jones, Boschee, Satrom

Senators Myrdal, Oban

1 A BILL for an Act to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota  
2 Century Code, relating to the authority of federal agents.

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

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

6 **29-06-05.2. Federal law enforcement officer - Authority to make arrests.**

- 7 1. "Federal agent" means an employee of the federal bureau of investigation; the federal  
8 drug enforcement administration; the bureau of alcohol, tobacco, firearms and  
9 explosives; the homeland security investigations unit of the department of homeland  
10 security; the bureau of Indian affairs police; federal law enforcement officers; or the  
11 United States customs and border protection who is authorized to arrest, with or  
12 without a warrant, any individual for a violation of the United States Code and carry a  
13 firearm in the performance of the employee's duties as a federal law enforcement  
14 officer. ~~The term does not include the bureau of Indian affairs police unless an~~  
15 ~~agreement is in effect between the state and the bureau of Indian affairs relating to the~~  
16 ~~reciprocal jurisdiction of state and bureau of Indian affairs law enforcement officers.~~
- 17 2. A federal agent has the same authority and immunity as a peace officer in this state  
18 when making an arrest for a nonfederal crime if any of the following exist:
  - 19 a. The federal agent has reasonable grounds to believe that a felony offense was  
20 committed and the individual arrested committed the offense.
  - 21 b. The federal agent is rendering assistance to a peace officer in an emergency or  
22 at the request of the peace officer.
  - 23 c. The federal agent is working as a part of a task force composed of North Dakota  
24 peace officers and federal law enforcement officers.

1       **SECTION 2. AMENDMENT.** Section 29-06-15 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **29-06-15. Arrest without warrant - Peace officer - ~~Officer in the United States customs~~**  
4 **~~and border protection~~ Federal agent.**

- 5       1. A law enforcement officer, without a warrant, may arrest a person:
- 6           a. For a public offense, committed or attempted in the officer's presence and for the  
7           purpose of this subdivision, a crime must be deemed committed or attempted in  
8           the officer's presence when what the officer observes through the officer's senses  
9           reasonably indicates to the officer that a crime was in fact committed or  
10          attempted in the officer's presence by the person arrested.
- 11          b. When the person arrested has committed a felony, although not in the officer's  
12          presence.
- 13          c. When a felony in fact has been committed, and the officer has reasonable cause  
14          to believe the person arrested to have committed it.
- 15          d. On a charge, made upon reasonable cause, of the commission of a felony by the  
16          party arrested.
- 17          e. For the public offenses, not classified as felonies and not committed in the  
18          officer's presence as provided for under section 29-06-15.1.
- 19          f. On a charge, made upon reasonable cause, of driving or being in actual physical  
20          control of a vehicle while under the influence of alcoholic beverages.
- 21          g. For the offense of violating a protection order under section 14-07.1-06, an order  
22          prohibiting contact under section 12.1-31.2-02, or for an assault involving  
23          domestic violence under section 14-07.1-11.
- 24          h. On a charge, made upon reasonable cause, of being under the influence of  
25          volatile chemical vapors in violation of section 19-03.1-22.1.
- 26       2. ~~An officer of the United States customs and border protection~~ A federal agent, without  
27       a warrant, may arrest a person if all of the following circumstances exist:
- 28           a. The officer is on duty.
- 29           b. One or more of the following situations exist:

- 1                   (1) The person commits an assault or other crime, defined and punishable
- 2                                   under chapter 12.1-17, against the officer or against any other person in the
- 3                                   presence of the officer.
- 4                   (2) The officer has reasonable cause to believe that a crime, as defined in
- 5                                   paragraph 1, has been committed and reasonable cause to believe that the
- 6                                   person to be arrested has committed it.
- 7                   (3) The officer has reasonable cause to believe that a felony has been
- 8                                   committed and reasonable cause to believe that the person to be arrested
- 9                                   has committed it.
- 10                  (4) The officer has received positive information from an authoritative source
- 11                                   that a peace officer holds a warrant for the person's arrest.
- 12                  3. If a law enforcement officer has reasonable cause to believe an individual has violated
- 13                                   a lawful order of a court of this state which requires the individual to participate in the
- 14                                   twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31,
- 15                                   the law enforcement officer may immediately take the individual into custody without a
- 16                                   warrant. An individual taken into custody under this subsection may not be released on
- 17                                   bail or on the individual's personal recognizance unless the individual has made a
- 18                                   personal appearance before a magistrate.