

Introduced by

Representatives Roers Jones, Becker, Hanson, M. Johnson, Klemin, Mock

Senators Bakke, Dwyer, Myrdal

1 A BILL for an Act to amend and reenact sections 29-08-02 and 29-05-12 of the North Dakota
2 Century Code, relating to bail and a summons in lieu of arrest warrant.

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

4 **SECTION 1. AMENDMENT.** Section 29-08-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **29-08-02. Admission to bail defined - Delegation of authority by magistrate -**

7 **Exception.**

8 1. Admission to bail is the order of a competent court or magistrate that the defendant be
9 discharged from actual custody upon an undertaking with sufficient sureties for the
10 defendant's appearance.

11 2. Except as otherwise prohibited by law or in a case involving an offense under
12 subdivisions f, g, and h of subsection 1 of section 29-06-15, a resident of this state
13 arrested with or without a warrant for a misdemeanor offense must be released from
14 custody on the individual's own recognizance and without appearing before a
15 magistrate. In a misdemeanor arrest with or without a warrant, a magistrate may order
16 the posting of bail if the magistrate has reasonable and probable grounds to believe an
17 individual will disregard a written promise to appear under this subsection or the
18 resident is subject to a pending unrelated criminal charge.

19 3. Upon posting cash bail in an amount established by a bail schedule or order of the
20 magistrate, a nonresident of this state who is arrested for a misdemeanor offense may
21 be released from custody before appearing before a magistrate.

22 4. A magistrate issuing an arrest warrant shall consider and may designate conditions
23 upon which an individual arrested with a warrant may be released from custody with
24 an order to appear before the magistrate at a designated time.

1 5. Any magistrate or municipal judge in this state may designate, authorize, and appoint
2 ~~an additional person or person~~ a designee to arrange, receive, and ~~approve~~ forward
3 ~~bail in cases involving traffic violations~~ to the court.

4 **SECTION 2. AMENDMENT.** Section 29-05-12 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **29-05-12. Bail** **Summons in lieu of arrest warrant and bail if offense charged is a**
7 **misdemeanor or infraction.**

- 8 1. Except as otherwise prohibited by law, a magistrate authorizing a criminal charge for a
9 resident of this state for a misdemeanor or infraction shall issue a summons to appear.
10 A magistrate may direct the issuance of an arrest warrant for a resident involving
11 offenses designated in subsection 2 of section 29-08-02. A magistrate authorizing a
12 criminal charge for a nonresident may authorize the issuance of a summons or arrest
13 warrant.
- 14 2. ~~If the offense charged in a warrant of arrest is a misdemeanor or infraction not within~~
15 ~~the jurisdiction of the magistrate who issued it to punish, and the accused is arrested~~
16 ~~in another county, the officer, upon request of the accused, shall take the accused~~
17 ~~before a magistrate in the county in which the arrest is made, who shall admit the~~
18 ~~accused to bail and take bail from the accused accordingly. If there is no magistrate~~
19 ~~residing within the county wherein the accused is arrested, and the accused requires~~
20 ~~it, the officer shall take the accused before a magistrate of any other county nearer or~~
21 ~~more accessible than the magistrate issuing the warrant, and said magistrate shall~~
22 ~~admit the accused to bail and take bail from the accused accordingly.~~ A summons
23 under this section must contain a conspicuous notice stating a failure to appear as
24 designated in the summons will result in the arrest of the individual and upon arrest,
25 the individual will not be released from custody unless otherwise ordered by the
26 magistrate.
- 27 3. If an officer or other individual makes an arrest for which bail is not required, the officer
28 or individual making the arrest shall take the individual before the nearest available
29 magistrate as provided in rule 5 of the North Dakota Rules of Criminal Procedure.