

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 1028

4
5 By: Representative D. Altes

For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR JURISDICTIONAL COOPERATION
9 REGARDING ARRESTS, SEARCHES, AND SEIZURES BY FEDERAL
10 EMPLOYEES; AND FOR OTHER PURPOSES.

Subtitle

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14 TO PROVIDE FOR JURISDICTIONAL
15 COOPERATION REGARDING ARRESTS, SEARCHES,
16 AND SEIZURES BY FEDERAL EMPLOYEES.

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code Title 12, Chapter 16 is amended to add a
22 subchapter to read as follows:

23 Subchapter 3 – Federal Law Enforcement Personnel – Cooperation with
24 County Sheriff.

25 12-16-301. Intent.

26 It is the intent of the General Assembly to:

27 (1) Ensure maximum cooperation between federal employees and
28 local law enforcement authorities;

29 (2) Ensure that federal employees who carry out arrests,
30 searches, and seizures in this state receive the best local knowledge and
31 expertise available; and

32 (3) Prevent misadventure affecting Arkansas citizens and their
33 rights that results from lack of cooperation or communication between federal
34 employees operating in Arkansas and properly constituted local law
35 enforcement authorities.



1 12-16-302. County sheriff.

2 (a) The county sheriff of each county is the senior law enforcement
 3 officer of that county and is the most authoritative law enforcement official
 4 in the county.

5 (b) The primary duties of the county sheriff are to keep the peace in
 6 the county and to secure and protect the liberties and security of the
 7 residents of the county.

8
 9 12-16-303. Federal employees.

10 (a) A federal employee who is not designated by state law as an
 11 Arkansas peace officer may not make an arrest or conduct a search or seizure
 12 in this state without the written permission of the county sheriff or county
 13 sheriff's designee of the county in which the arrest, search, or seizure will
 14 occur unless one (1) or more of the following circumstances exists:

15 (1) The arrest, search, or seizure will take place on a federal
 16 enclave for which jurisdiction has been actively ceded to the United States
 17 of America by state law;

18 (2) The federal employee witnesses the commission of a crime,
 19 the nature of which requires an immediate arrest;

20 (3) The arrest, search, or seizure is made under federal or
 21 state customs or immigration laws;

22 (4) The intended subject of the arrest, search, or seizure is an
 23 employee of the office of the county sheriff or is an elected county or state
 24 officer; or

25 (5) The federal employee has probable cause to believe that the
 26 subject of the arrest, search, or seizure has close connections with the
 27 county sheriff, and therefore the subject is likely to be informed of the
 28 impending arrest, search, or seizure.

29 (b) The county sheriff or county sheriff's designee may refuse written
 30 permission for any reason that the county sheriff or county sheriff's
 31 designee considers sufficient.

32 (c)(1) A federal employee who desires to exercise an arrest, search,
 33 or seizure under subdivision (a)(4) of this section shall obtain the written
 34 permission of the Attorney General for the arrest, search, or seizure unless
 35 the resulting delay in obtaining the written permission would likely cause:

36 (A) Serious harm to one (1) or more individuals or to a

1 community; or

2 (B) Flight of the subject of the arrest, search, or
3 seizure in order to avoid prosecution.

4 (2) The Attorney General may refuse the permission for any
5 reason the Attorney General considers sufficient.

6 (d)(1) A federal employee who desires to exercise an arrest, search,
7 or seizure under subdivision (a)(5) of this section shall obtain the written
8 permission of the Attorney General.

9 (2) The request for permission shall include a written
10 statement, under oath, describing probable cause.

11 (3) The Attorney General may refuse the request for any reason
12 that the Attorney General considers sufficient.

13 (e)(1) A request to the county sheriff or Attorney General for written
14 permission under subsections (b)-(d) of this section to exercise an arrest,
15 search, or seizure shall contain:

16 (A) The name of the subject of the arrest, search, or
17 seizure;

18 (B) A clear statement of probable cause for the arrest,
19 search, or seizure or a federal arrest, search, or seizure warrant that
20 contains a clear statement of probable cause;

21 (C) A description of specific assets, if any, to be
22 searched for or seized;

23 (D) A statement of the date and time that the arrest,
24 search, or seizure is to occur; and

25 (E) The address or location where the intended arrest,
26 search, or seizure will be attempted.

27 (2) The request may be in letter form, either typed or
28 handwritten, but must be countersigned with the original signature of the
29 county sheriff or county sheriff's designee or by the Attorney General to
30 constitute valid permission.

31 (3) The permission is valid for forty-eight (48) hours after it
32 is signed.

33 (4) The sheriff or Attorney General shall keep a copy of the
34 permission request on file.

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36 12-16-304. Prosecution.

1 (a) A federal employee who conducts an arrest, a search, or a seizure
 2 or an attempted arrest, search, or seizure in violation of § 12-16-303 shall
 3 be prosecuted by the prosecuting attorney of the county for violations of
 4 state law as if the federal employee was acting as a private citizen.

5 (b) To the extent possible, any victim of a crime by a federal
 6 employee acting in violation of § 12-16-303 may receive benefits available to
 7 other victims of crime in this state, including without limitation victims'
 8 benefits from the Crime Victims Reparations Revolving Fund.

9 (c) The prosecuting attorney shall prosecute when a claim of violation
 10 of § 12-16-303 has been made by the county sheriff, the county sheriff's
 11 designee, or the Attorney General.

12
 13 12-16-305. Declaration.

14 Under the Tenth Amendment to the United States Constitution and this
 15 state's compact with other states, the General Assembly declares that any
 16 federal law purporting to give federal employees the authority of a county
 17 sheriff in this state is not recognized by and is specifically rejected by
 18 this state and is declared to be invalid in this state.