1	State of Arkansas	As Engrossed: H3/30/21 A Bill
2	93rd General Assembly	
3	Regular Session, 2021	HOUSE BILL 1789
4		
5	By: Representative Payton	
6		For An Ast To Do Fritidad
7		For An Act To Be Entitled
8		O PROVIDE FOR JURISDICTIONAL COOPERATION
9		G ARRESTS, SEARCHES, AND SEIZURES BY FEDERAL
10	EMPLOYEE	S; AND FOR OTHER PURPOSES.
11 12		
12		Subtitle
14	ТО	PROVIDE FOR JURISDICTIONAL COOPERATION
15	REC	ARDING ARRESTS, SEARCHES, AND SEIZURES
16	ВҮ	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. Ar	kansas Code Title 12, Chapter 16, is amended to add an
22	additional subchapte	r to read as follows:
23	<u>Subchapter 3 –</u>	Federal Law Enforcement Personnel - Cooperation with
24	County Sheriffs.	
25		
26	<u>12-16-301. In</u>	tent.
27	<u>It is the inte</u>	nt of the General Assembly to:
28	<u>(1) Ens</u>	ure maximum cooperation between federal employees and
29	local law enforcemen	t authorities;
30	<u>(2) Ens</u>	ure that federal employees who carry out arrests,
31	searches, and seizur	es in this state receive the best local knowledge and
32	expertise available;	
33		vent misadventure affecting Arkansas citizens and their
34		from lack of cooperation or communication between federal
35		in Arkansas and properly constituted local law
36	enforcement authorit	ies.



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2	<u>12-16-302. County sheriff.</u>
3	(a) The county sheriff of each county is the senior law enforcement
4	officer of that county and is the most authoritative law enforcement official
5	in the county.
6	(b) The primary duties of the county sheriff are to abide by the oath
7	required under Arkansas Constitution, Article 19, § 20, which is to "solemnly
8	swear (or affirm) that [he or she] will support the Constitution of the
9	United States and the Constitution of the State of Arkansas, and that [he or
10	she] will faithfully discharge the duties of the office of [county sheriff],
11	upon which [he or she is] now about to enter", to keep the peace in the
12	county, and to secure and protect the liberties and security of the residents
13	of the county.
14	
15	12-16-303. Federal employees.
16	(a) A federal employee who is not designated by state law as an
17	Arkansas peace officer may not make an arrest or conduct a search or seizure
18	in this state without the written permission of the county sheriff or county
19	sheriff's designee of the county in which the arrest, search, or seizure will
20	occur unless one (1) or more of the following circumstances exist:
21	(1) The arrest, search, or seizure will take place on a federal
22	enclave for which jurisdiction has been actively ceded to the United States
23	of America by state law;
24	(2) The federal employee witnesses the commission of a crime,
25	the nature of which requires an immediate arrest;
26	(3) The arrest, search, or seizure is made under federal or
27	state customs or immigration laws;
28	(4) The intended subject of the arrest, search, or seizure is an
29	employee of the office of the county sheriff or is an elected county or state
30	officer; or
31	(5) The federal employee has probable cause to believe that the
32	subject of the arrest, search, or seizure has close connections with the
33	county sheriff, and therefore the subject is likely to be informed of the
34	impending arrest, search, or seizure.
35	(b) The county sheriff or county sheriff's designee may refuse written
36	permission for any reason that the county sheriff or county sheriff's

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1	designee considers sufficient.
2	(c)(l) A federal employee who desires to exercise an arrest, search,
3	or seizure under subdivision (a)(4) of this section shall obtain the written
4	permission of the Attorney General for the arrest, search, or seizure unless
5	the resulting delay in obtaining the written permission would likely cause:
6	(A) Serious harm to one (1) or more individuals or to a
7	community; or
8	(B) Flight of the subject of the arrest, search, or
9	seizure in order to avoid prosecution.
10	(2) The Attorney General may refuse the permission for any
11	reason the Attorney General considers sufficient.
12	(d)(1) A federal employee who desires to exercise an arrest, search,
13	or seizure under subdivision (a)(5) of this section shall obtain the written
14	permission of the Attorney General.
15	(2) The request for permission shall include a written
16	statement, under oath, describing probable cause.
17	(3) The Attorney General may refuse the request for any reason
18	that the Attorney General considers sufficient.
19	(e)(1) A request to the county sheriff or Attorney General for written
20	permission under subsections (b)-(d) of this section to exercise an arrest,
21	search, or seizure shall contain:
22	(A) The name of the subject of the arrest, search, or
23	seizure;
24	(B) A clear statement of probable cause for the arrest,
25	search, or seizure or a federal arrest, search, or seizure warrant that
26	contains a clear statement of probable cause;
27	(C) A description of specific assets, if any, to be
28	searched for or seized;
2 9	(D) A statement of the date and time that the arrest,
30	search, or seizure is to occur; and
31	(E) The address or location where the intended arrest,
32	search, or seizure will be attempted.
33	(2) The request may be in letter form, either typed or
34	handwritten, but must be countersigned with the original signature of the
35	county sheriff or county sheriff's designee or by the Attorney General to
36	constitute valid permission.

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1	(3) The permission is valid for forty-eight (48) hours after it
2	is signed.
3	(4) The county sheriff or Attorney General shall keep a copy of
4	the permission request on file.
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6	<u>12-16-304.</u> Prosecution.
7	(a) A federal employee who conducts an arrest, a search, or a seizure
8	or an attempted arrest, search, or seizure in violation of § 12-16-303 may be
9	prosecuted by the prosecuting attorney of the county for violations of state
10	law as if the federal employee were acting as a private citizen.
11	(b) To the extent possible, any victim of a crime by a federal
12	employee acting in violation of § 12-16-303 may receive benefits available to
13	other victims of crime in this state, including without limitation victims'
14	benefits from the Crime Victims Reparations Revolving Fund.
15	(c) The prosecuting attorney shall prosecute when a claim of violation
16	of § 12-16-303 has been made by the county sheriff, the county sheriff's
17	designee, or the Attorney General.
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19	<u>12-16-305. Declaration.</u>
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