

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 21

By: Dahm

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6 AS INTRODUCED

7 An Act relating to county sheriffs; declaring certain
8 authority; prohibiting a certain federal employee to
9 make an arrest, search, or seizure without written
10 permission of county sheriff; providing exceptions;
11 allowing denial of permission by sheriff; requiring
12 certain permission of the Attorney General; requiring
13 certain elements in written permission request;
14 providing for validity of written permission;
15 providing for violations; prohibiting discretion of
16 district attorney to not prosecute violations;
17 declaring federal authority of a county sheriff to be
18 rejected; providing for codification; and declaring
19 an emergency.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 517.2 of Title 19, unless there
23 is created a duplication in numbering, reads as follows:

24 A. The elected sheriff of each county is the senior
authoritative peace officer of that county. The primary duties of
the sheriff are to keep the peace in the county and to secure and
protect the liberties and security of the residents of the county.

1 B. A federal employee who is not designated by Oklahoma law as
2 an Oklahoma peace officer may not make an arrest, search, or seizure
3 in this state without the written permission of the sheriff or
4 designee of the sheriff of the county in which the arrest, search,
5 or seizure will occur unless:

6 1. The arrest, search, or seizure will take place on a federal
7 enclave for which jurisdiction has been actively ceded to the United
8 States of America by an Oklahoma statute;

9 2. The federal employee witnesses the commission of a crime,
10 the nature of which requires an immediate arrest;

11 3. The intended subject of the arrest, search, or seizure is an
12 employee of the sheriff's office or is an elected county or state
13 officer; or

14 4. The federal employee has probable cause to believe that the
15 subject of the arrest, search, or seizure has close connections with
16 the sheriff, which connections are likely to result in the subject
17 being informed of the impending arrest, search, or seizure.

18 C. The county sheriff or designee of the sheriff may refuse
19 permission for any reason that the sheriff or designee considers
20 sufficient.

21 D. A federal employee who is not designated by Oklahoma law as
22 a peace officer and who desires to exercise an exception to
23 paragraph 3 of subsection B of this section shall obtain the written
24 permission of the Attorney General for the arrest, search, or

1 seizure unless the resulting delay in obtaining permission could
2 cause serious harm to one or more individuals or to a community or
3 would potentially cause flight of the subject of the arrest, search,
4 or seizure in order to avoid prosecution. The Attorney General may
5 refuse the permission for any reason that the Attorney General
6 considers sufficient.

7 E. A federal employee who is not designated by Oklahoma law as
8 a peace officer and who desires to exercise an exception to
9 paragraph 4 of subsection B of this section shall obtain the written
10 permission of the Attorney General. The request for permission
11 shall include a written statement, under oath, describing the
12 federal employee's probable cause. The Attorney General may refuse
13 the request for any reason that the Attorney General considers
14 sufficient.

15 F. A permission request to the county sheriff or Attorney
16 General shall contain:

- 17 1. The name of the subject of the arrest, search, or seizure;
- 18 2. A clear statement of probable cause for the arrest, search,
19 or seizure or a federal arrest, search, or seizure warrant that
20 contains a clear statement of probable cause;
- 21 3. A description of specific assets, if any, to be searched for
22 or seized;
- 23 4. A statement of the date and time that the arrest, search, or
24 seizure is to occur; and

1 5. The address or location where the intended arrest, search,
2 or seizure will be attempted.

3 G. The request may be in letter form, either typed or
4 handwritten, but shall be countersigned with the original signature
5 of the county sheriff or designee of the sheriff or by the Attorney
6 General, to constitute valid permission. The permission is valid
7 for forty-eight (48) hours after it is signed. The sheriff or
8 Attorney General shall keep a copy of the permission request on
9 file.

10 H. An arrest, search, or seizure or attempted arrest, search,
11 or seizure in violation of subsection B is unlawful and individuals
12 involved shall be prosecuted by the district attorney of the county
13 for kidnapping if an arrest or attempted arrest occurred, for
14 trespass if a search or attempted search occurred, for theft if a
15 seizure or attempted seizure occurred, and for any applicable
16 homicide offense if loss of life occurred.

17 I. The district attorney of the county has no discretion not to
18 prosecute once a claim of violation of the provisions of this
19 section has been made by the county sheriff or designee of the
20 sheriff, and failure to abide by this mandate subjects the district
21 attorney to be subject to removal in accordance with the provisions
22 of Section 1181.1 et seq. of Title 22 of the Oklahoma Statutes.

23 J. Pursuant to the Tenth Amendment to the United States
24 Constitution, the Legislature declares that any federal law

1 purporting to give federal employees the authority of a county
2 sheriff in this state is not recognized by this state, is
3 specifically rejected by this state, and is declared to be null and
4 void, and of no effect in this state.

5 SECTION 2. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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