

House File 2433 - Introduced

HOUSE FILE 2433

BY THOMSON

A BILL FOR

1 An Act requiring written permission from a county sheriff
2 before an arrest, search, or seizure may be conducted within
3 a county under the county sheriff's jurisdiction by any
4 federal or out-of-state law enforcement officer or agent and
5 any Iowa law enforcement officer or agent from outside the
6 county sheriff's jurisdiction, establishing a private right
7 of action, and making penalties applicable.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.652, subsection 1, unnumbered
2 paragraph 1, Code 2024, is amended to read as follows:

3 The sheriff is the chief law enforcement officer of the
4 county in which the sheriff is elected and may call upon any
5 person for assistance to:

6 Sec. 2. NEW SECTION. 331.653A **Sheriff's permission for**
7 **arrests, searches, and seizures — exceptions — remedies.**

8 1. *a.* Except as provided in subsection 4, all federal and
9 out-of-state law enforcement officers or agents and all Iowa
10 law enforcement officers or agents outside a county sheriff's
11 jurisdiction must receive the written permission of the county
12 sheriff or the sheriff's designee prior to making an arrest
13 or conducting a search or seizure within the county under the
14 county sheriff's jurisdiction.

15 *b.* The request must be submitted in person and may be
16 in letter form, and must be signed by the county sheriff or
17 sheriff's designee to constitute valid permission.

18 *c.* Permission is valid for forty-eight hours after it is
19 signed.

20 *d.* A copy of the permission request shall be kept on file
21 by the sheriff.

22 2. The written request for permission shall contain all of
23 the following:

24 *a.* The name of the subject of the arrest, search, or
25 seizure.

26 *b.* A clear statement of probable cause for the arrest,
27 search, or seizure, or a federal warrant that contains a clear
28 statement of probable cause.

29 *c.* A description of specific assets, if any, to be searched
30 for or seized.

31 *d.* A statement of the date and time that the arrest, search,
32 or seizure is to occur.

33 *e.* The address or location where the intended arrest,
34 search, or seizure will be attempted.

35 3. The county sheriff or sheriff's designee may refuse

1 permission for any reason the county sheriff or designee
2 considers sufficient.

3 4. A law enforcement officer or other agent not designated
4 by state law as an Iowa peace officer may make an arrest,
5 search, or seizure in this state without the written permission
6 of the county sheriff or sheriff's designee of the county in
7 which the arrest, search, or seizure is to occur if any of the
8 following circumstances exist:

9 a. The arrest, search, or seizure will take place in a
10 federal enclave for which jurisdiction has been lawfully
11 ceded to the United States by state law. For purposes of
12 this paragraph, "*federal enclave*" means territory transferred
13 by a state through cession or consent to the United States
14 over which the federal government has acquired exclusive
15 jurisdiction.

16 b. The law enforcement officer or agent witnesses the
17 commission of a crime, the nature of which requires an
18 immediate arrest, as authorized by law.

19 c. The intended subject of the arrest, search, or seizure
20 is an employee of the county sheriff's office or is an elected
21 county or state officer, in which case written permission is
22 required by the state attorney general or a special prosecutor
23 if the attorney general is the intended subject.

24 d. The intended subject of the arrest, search, or seizure
25 is the county sheriff that has been deputized by an outside
26 agency, in which case written permission is required by the
27 state attorney general.

28 e. The law enforcement officer or agent has probable
29 cause to believe that the subject of the arrest, search, or
30 seizure has close connections with the county sheriff, which
31 connections are likely to result in the subject being informed
32 of the impending arrest, search, or seizure, in which case
33 written permission is required by the state attorney general.

34 5. A federal or out-of-state law enforcement officer or
35 agent and an Iowa law enforcement officer or agent from outside

1 a county sheriff's jurisdiction who conducts an arrest, search,
2 or seizure or attempted arrest, search, or seizure in violation
3 of subsection 1 shall be charged with and prosecuted for the
4 following offenses by the applicable county attorney:

- 5 a. Kidnapping, if an arrest or attempted arrest occurs.
- 6 b. Trespass, if a search or attempted search occurs.
- 7 c. Theft, if a seizure or attempted seizure occurs.
- 8 d. Homicide, if loss of life occurs.
- 9 e. Any other applicable criminal offense.

10 6. A county sheriff; county attorney; the governor; the
11 lieutenant governor; the attorney general; the United States
12 department of justice; the federal bureau of investigation; the
13 federal bureau of alcohol, tobacco, firearms and explosives;
14 and any other appropriate agency or department shall be
15 provided copies of the provisions contained in this section.

16 Sec. 3. NEW SECTION. 331.653B Private right of action —
17 damages — statute of limitations.

18 1. An individual who is subjected to an arrest, search, or
19 seizure by a federal or out-of-state law enforcement officer
20 in violation of section 331.653A may bring an action at law to
21 recover actual damages. The court may order such equitable
22 relief as it deems necessary to protect the public from further
23 violations, including temporary and permanent injunctive
24 relief.

25 2. If the court finds that a federal or out-of-state law
26 enforcement officer has violated section 331.653A and the
27 individual is awarded actual damages, the court shall award to
28 the individual the costs of the action and reasonable attorney
29 fees.

30 3. If the finder of fact finds by a preponderance of clear,
31 convincing, and satisfactory evidence that an act in violation
32 of section 331.653A constitutes willful and wanton disregard
33 for the rights or safety of another, in addition to an award of
34 actual damages, statutory damages up to three times the amount
35 of actual damages may be awarded.

1 4. An action for a violation of section 331.653A must be
2 brought within two years.

3 5. No employee of the state or of any of its political
4 subdivisions, or an employee of a county, township, or
5 municipality shall be held liable for a violation of section
6 331.653A.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill requires written permission from a county sheriff
11 before an arrest, search, or seizure may be conducted within a
12 county under the county sheriff's jurisdiction by any federal
13 or out-of-state law enforcement officer or agent and any Iowa
14 law enforcement officer or agent from outside the county
15 sheriff's jurisdiction, and establishes a private right of
16 action.

17 The bill provides that the county sheriff is the chief
18 law enforcement officer of the county in which the sheriff
19 is elected. Except as otherwise provided, all federal and
20 out-of-state law enforcement officers or agents and all Iowa
21 law enforcement officers and agents from outside a county
22 sheriff's jurisdiction must receive the written permission of
23 the county sheriff or the sheriff's designee prior to making
24 an arrest or conducting a search or seizure within the county
25 under the county sheriff's jurisdiction. The bill specifies
26 the information that must be contained in the written request.
27 The request must be submitted in person and must be signed by
28 the county sheriff or sheriff's designee to constitute valid
29 permission. Permission is valid for 48 hours after it is
30 signed.

31 The bill provides that a law enforcement officer or other
32 agent not designated by state law as an Iowa peace officer may
33 make an arrest, search, or seizure in this state without the
34 written permission of the county sheriff or sheriff's designee
35 of the county in which the arrest, search, or seizure is to

1 occur if any of the following circumstances exist: the arrest,
2 search, or seizure will take place in a federal enclave for
3 which jurisdiction has been lawfully ceded to the United States
4 by state law; the law enforcement officer or agent witnesses
5 the commission of a crime, the nature of which requires an
6 immediate arrest, as authorized by law; the intended subject
7 of the arrest, search, or seizure is an employee of the county
8 sheriff's office or is an elected county or state officer, in
9 which case written permission is required by the state attorney
10 general; the intended subject of the arrest, search, or seizure
11 is the county sheriff that has been deputized by an outside
12 agency, in which case written permission is required by the
13 state attorney general; or the law enforcement officer or agent
14 has probable cause to believe that the subject of the arrest,
15 search, or seizure has close connections with the county
16 sheriff, which connections are likely to result in the subject
17 being informed of the impending arrest, search, or seizure, in
18 which case written permission is required by the state attorney
19 general or a special prosecutor if the attorney general is the
20 intended subject.

21 The bill provides that a federal or out-of-state law
22 enforcement officer or agent and an Iowa law enforcement
23 officer or agent from outside a county sheriff's jurisdiction
24 who conducts an arrest, search, or seizure or attempted arrest,
25 search, or seizure in violation of the bill shall be charged
26 with and prosecuted for the following offenses by the county
27 attorney: kidnapping, if an arrest or attempted arrest occurs;
28 trespass, if a search or attempted search occurs; theft, if a
29 seizure or attempted seizure occurs; homicide, if loss of life
30 occurs; or any other applicable criminal offense.

31 The bill specifies that a county sheriff; county attorney;
32 the governor; the lieutenant governor; the state attorney
33 general; the United States department of justice; the federal
34 bureau of investigation; the federal bureau of alcohol,
35 tobacco, firearms and explosives; and any other appropriate

1 agency or department shall be provided copies of the provisions
2 contained in the bill.

3 The bill provides that an individual who is subjected to
4 an arrest, search, or seizure in violation of Code section
5 331.653A may bring an action at law, within two years of the
6 violation, to recover actual damages and equitable relief as
7 the court deems necessary including temporary and permanent
8 injunctive relief, costs of the action, and reasonable attorney
9 fees.

10 The bill provides that if the finder of fact finds by a
11 preponderance of clear, convincing, and satisfactory evidence
12 that an act in violation of Code section 331.653A constitutes
13 willful and wanton disregard for the rights or safety of
14 another, in addition to an award of actual damages, statutory
15 damages up to three times the amount of actual damages may be
16 awarded.

17 The bill provides that no employee of the state or of any
18 of its political subdivisions, or an employee of a county,
19 township, or municipality shall be held liable for a violation
20 of Code section 331.653A.