Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2042

Introduced by

Legislative Management

(Human Services Committee)

A BILL for an Act to amend and reenact sections 5-01-05.1, 12.1-01-04, 12.1-04-06, 12.1-04.1-02, 12.1-04.1-03, 12.1-04.1-04, 12.1-04.1-05, 12.1-04.1-06, 12.1-04.1-07, 12.1-04.1-08, 12.1-04.1-10, 12.1-04.1-11, 12.1-04.1-12, 12.1-04.1-13, 12.1-04.1-14, 12.1-04.1-15, 12.1-04.1-22, 12.1-04.1-23, 25-01-01, 25-03.1-04, 25-03.1-08, 25-03.1-10, 25-03.1-11, 25-03.1-18.1, and 32-03-48, subdivision b of subsection 1 of section 43-48-15, sections 49-10.1-05, 50-25.1-03, 50-25.2-03, and 62.1-01-01, subdivisions b and c of subsection 1 of section 62.1-02-01, and subdivision b of subsection 1 of section 62.1-02-01.2 of the North Dakota Century Code, relating to references to mental health professionals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

5-01-05.1. Public intoxication - Assistance - Medical care.

A peace officer ~~has authority to~~may take any apparently intoxicated ~~person~~individual to the ~~person's~~individual's home, to a local hospital, to a detoxification center, or, whenever that ~~person~~individual constitutes a danger to that ~~person~~individual or others, to a jail for purposes of detoxification. A ~~duly licensed physician~~tier 1b mental health professional, as defined under section 25-01-01, of a local hospital or a licensed addiction counselor of a detoxification center ~~has authority to~~may hold that ~~person~~individual for treatment up to seventy-two hours. That intoxicated ~~person~~individual may not be held in jail because of intoxication more than twenty-four hours. An intoxicated ~~person~~individual may not be placed in a jail unless a jailer is constantly present within hearing distance and medical services are provided ~~when~~if the need is indicated. Upon placing that ~~person~~individual in jail, or if the ~~person~~individual is admitted ~~into~~to a hospital or detoxification center, upon admission, the peace officer shall make a reasonable effort to notify the intoxicated ~~person's~~individual's family as soon as possible. Any additional

costs incurred by the city, county, ambulance service, or medical service provider on account of an intoxicated ~~person shall be~~individual are recoverable from that ~~person~~individual.

SECTION 2. AMENDMENT. Section 12.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

12.1-01-04. General definitions.

As used in this title, unless a different meaning plainly is required:

1. "Act" or "action" means a bodily movement, whether voluntary or involuntary.
2. "Acted", "acts", and "actions" include, where relevant, "omitted to act" and "omissions to act".
3. "Actor" includes, where relevant, a person guilty of an omission.
4. "Bodily injury" means any impairment of physical condition, including physical pain.
5. "Court" means any of the following courts: the supreme court, a district court, and where relevant, a municipal court.
6. "Dangerous weapon" ~~means, but is not limited to,~~includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon ~~which~~that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO_2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.
7. "Destructive device" means any explosive, incendiary or poison gas bomb, grenade, mine, rocket, missile, or similar device.
8. "Explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or other ingredients in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, or material, or any part thereof may cause an explosion.
9. ~~Repealed by S.L. 1975, ch. 116, § 33.~~

~~10.~~ "Firearm" means any weapon ~~which~~that will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such weapon, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.

~~11.~~10. "Force" means physical action.

~~12.~~11. "Government" means:

a. The government of this state or any political subdivision of this state;

b. Any agency, subdivision, or department of the ~~foregoing~~state or any political subdivision of the state, including the executive, legislative, and judicial branches;

c. Any corporation or other entity established by law to carry on any governmental function; and

d. Any commission, corporation, or agency established by statute, compact, or contract between or among governments for the execution of intergovernmental programs.

~~13.~~12. "Governmental function" includes any activity ~~which~~that one or more public servants are legally authorized to undertake on behalf of government.

~~14.~~13. "Harm" means loss, disadvantage, or injury to the person affected, and includes loss, disadvantage, or injury to any other person in whose welfare the person affected is interested.

~~15.~~14. "Included offense" means an offense:

a. ~~Which~~That is established by proof of the same or less than all the facts required to establish commission of the offense charged;

b. ~~Which~~That consists of criminal facilitation of or an attempt or solicitation to commit the offense charged; or

c. ~~Which~~That differed from the offense charged only in that it constitutes a less serious harm or risk of harm to the same person, property, or public interest, or because a lesser degree of culpability suffices to establish its commission.

~~16. "Includes" should be read as if the phrase "but is not limited to" were also set forth.~~

~~17.~~15. "Law enforcement officer" or "peace officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.

~~18.~~16. "Local" means of or pertaining to any political subdivision of the state.

~~19.~~17. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable individual, with due consideration of the totality of circumstances.

~~20.~~18. "Offense" means conduct for which a term of imprisonment or a fine is authorized by statute after conviction.

~~21.~~19. "Official action" includes a decision, opinion, recommendation, vote, or other exercise of discretion by any government agency.

~~22.~~20. "Official proceeding" means a proceeding heard or which may be heard before any government agency or branch or public servant authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.

~~23.~~21. "Omission" means a failure to act.

~~24.~~22. As used in this title and in sections outside this title which define offenses, "person" includes, where relevant, a corporation, limited liability company, partnership, unincorporated association, or other legal entity. When used to designate a party whose property may be the subject of action constituting an offense, the word "person" includes a government ~~which~~that may lawfully own property in this state.

~~25.~~23. "Political subdivision" as used in this title and in any statute outside this title which defines an offense means a county, city, school district, township, and any other local governmental entity created by law.

~~26. "Property" includes both real and personal property.~~

~~27.~~24. "Public servant" as used in this title and in any statute outside this title which defines an offense means any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function~~, but the~~. The term does not include witnesses.

~~28.~~25. "Risk assessment" means an initial phase with a secondary process approved by the department of human services for the evaluation of the likelihood ~~that~~ a person ~~who~~that committed an offense will commit another similar offense. The initial phase is an assessment tool that is administered by a trained probation and parole officer. A

predetermined score on the initial phase initiates the secondary process that includes a clinical interview, psychological testing, and verification through collateral information or psychophysiological testing, or both. The department of human services shall perform the secondary process of the risk assessment.

~~29.~~26. "Serious bodily injury" means bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs.

~~30.~~27. "Signature" includes any name, mark, or sign written or affixed with intent to authenticate any instrument or writing.

~~31.~~28. "Substantial bodily injury" means a substantial temporary disfigurement, loss, or impairment of the function of any bodily member or organ.

~~32.~~29. "Thing of value" or "thing of pecuniary value" means a thing of value in the form of money, tangible or intangible property, commercial interests, or anything else the primary significance of which is economic gain to the recipient.

~~33. "Writing" includes printing, typewriting, and copying.~~

~~Words used in the singular include the plural, and the plural the singular. Words in the masculine gender include the feminine and neuter genders. Words used in the present tense include the future tense, but exclude the past tense.~~

30. "Tier 1 mental health professional" has the same meaning as provided under section 25-01-01.

SECTION 3. AMENDMENT. Section 12.1-04-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-06. Examination - Temporary commitment.

Whenever there is reason to doubt the defendant's fitness to proceed, the court may order the detention of the defendant for the purpose of an examination by a ~~psychiatrist or a licensed psychologist~~tier 1b mental health professional. The detention must be in the least restrictive appropriate setting, including the state hospital, the life skills and transition center, or other suitable facility for a reasonable period, not to exceed thirty days, for such examination. In lieu of detention, the court may allow the defendant to remain in the defendant's present residential setting or other suitable residential setting for the purpose of evaluation by a suitable facility or

personnel, subject to any reasonable limitation the court may impose. A human service center may not be considered a suitable facility and may not be considered suitable personnel under this section unless the court is aware ~~that~~ an inquiry ~~has been~~was made ~~prior to~~before the court ~~ordering~~ordered the evaluation to ensure ~~that~~ appropriate resources exist at the human service center being ordered to conduct the evaluation. The court, by subsequent order and for good cause shown, may extend the detention for a period not to exceed thirty additional days. While the defendant is detained, the defendant's legal counsel, family, and others necessary to assist in the defendant's case ~~shall~~must have reasonable opportunity to examine and confer with the defendant.

SECTION 4. AMENDMENT. Section 12.1-04.1-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-02. Court authorization of state-funded mental health services for certain defendants.

A defendant who is unable to pay for the services of a tier 1a mental health professional, and to whom those services are not otherwise available, may apply to the court for assistance. Upon a showing of a likely need for examination on the question of lack of criminal responsibility or lack of requisite state of mind as a result of the defendant's mental condition, the court shall authorize reasonable expenditures from public funds for the defendant's retention of the services of one or more tier 1a mental health professionals. Upon request by the defendant, the application and the proceedings on the application must be ex parte and in camera, but any order under this section authorizing expenditures must be made part of the public record.

SECTION 5. AMENDMENT. Section 12.1-04.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-03. Notice of defense of lack of criminal responsibility.

1. If the defendant intends to assert the defense of lack of criminal responsibility, the defendant shall notify the prosecuting attorney in writing and file a copy of the notice with the court. The notice must indicate whether the defendant intends to introduce at trial evidence obtained from examination of the defendant by a tier 1a mental health professional after the time of the alleged offense.
2. The defendant shall file the notice within the time prescribed for pretrial motions or at such earlier or later time as the court directs. For cause shown, the court may allow

late filing of the notice and grant additional time to the parties to prepare for trial or may make other appropriate orders.

3. If the defendant fails to give notice in accordance with this section, lack of criminal responsibility may not be asserted as a defense.

SECTION 6. AMENDMENT. Section 12.1-04.1-04 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-04. Notice regarding expert testimony on lack of state of mind as element of alleged offense.

1. If the defendant intends to introduce at trial evidence obtained from examination of the defendant by a tier 1a mental health professional after the time of the alleged offense to show ~~that~~ the defendant lacked the state of mind required for the alleged offense, the defendant shall notify the prosecuting attorney in writing and file a copy of the notice with the court.
2. The defendant shall file the notice within the time prescribed for pretrial motions or at such earlier or later time as the court directs. For cause shown, the court may allow late filing of the notice and grant additional time to the parties to prepare for trial or may make other appropriate orders.

SECTION 7. AMENDMENT. Section 12.1-04.1-05 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-05. Examination at request of prosecuting attorney.

1. If the defendant has given notice under section 12.1-04.1-03 or 12.1-04.1-04 of intent to introduce evidence obtained from examination of the defendant by a tier 1a mental health professional after the time of the alleged offense, the court, upon application by the prosecuting attorney and after opportunity for response by the defendant, shall order ~~that~~ the defendant be examined by one or more tier 1a mental health professionals retained by the prosecuting attorney. The court shall include in the order provisions as to the time, place, and conditions of the examination.
2. If the parties agree to examination of the defendant by a tier 1a mental health professional retained by the prosecuting attorney without order of the court, sections 12.1-04.1-06, 12.1-04.1-07, 12.1-04.1-08, 12.1-04.1-10, 12.1-04.1-11, 12.1-04.1-12, 12.1-04.1-13, 12.1-04.1-14, and 12.1-04.1-15 apply to that examination.

SECTION 8. AMENDMENT. Section 12.1-04.1-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-06. Explanation to defendant.

At the beginning of each examination conducted under section 12.1-04.1-05, the tier 1a mental health professional shall inform the defendant ~~that~~ the examination is being made at the request of the prosecuting attorney; the purpose of the examination is to obtain information about the defendant's mental condition at the time of the alleged offense; and information obtained from the examination may be used at trial and, if the defendant is found not guilty by reason of lack of criminal responsibility, in subsequent proceedings concerning commitment or other disposition.

SECTION 9. AMENDMENT. Section 12.1-04.1-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-07. Scope of examination.

An examination of the defendant conducted under section 12.1-04.1-05 may consist of such interviewing, clinical evaluation, and psychological testing ~~as~~ the tier 1a mental health professional considers appropriate, within the limits of nonexperimental, generally accepted medical, psychiatric, or psychological practices.

SECTION 10. AMENDMENT. Section 12.1-04.1-08 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-08. Recording of examination.

1. An examination of the defendant conducted under section 12.1-04.1-05 must be audio-recorded and, if ordered by the court, video-recorded. The manner of recording may be specified by rule or by court order in individual cases.
2. Within seven days after completion of an examination conducted under section 12.1-04.1-05, the tier 1a mental health professional conducting the examination shall deliver a copy of the recording of the examination, under seal, to the court and a copy of the recording to the defendant. The recording may not be disclosed except in accordance with this chapter.

SECTION 11. AMENDMENT. Section 12.1-04.1-10 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-10. Reports by tier 1a mental health professionals and expert witnesses.

A tier 1a mental health professional retained by the prosecuting attorney and a tier 1a mental health professional whom the defendant intends to call to testify at trial shall prepare a written report concerning any examination of the defendant and other pretrial inquiry by or under the supervision of the tier 1a mental health professional. Any other individual whom either party intends to call at trial as an expert witness on any aspect of the defendant's mental condition shall prepare a written report. A report under this section must contain:

1. The specific issues addressed.
2. The identity of individuals interviewed and records or other information used.
3. The procedures, tests, and techniques used.
4. The date and time of examination of the defendant, the explanation concerning the examination given to the defendant, and the identity of each individual present during an examination.
5. The relevant information obtained and findings made.
6. Matters concerning which the mental health professional was unable to obtain relevant information and the reasons therefor.
7. The conclusions reached and the reasoning on which the conclusions were based.

SECTION 12. AMENDMENT. Section 12.1-04.1-11 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-11. Exchange of reports and production of documents.

Not less than fifteen days before trial, the prosecuting attorney shall furnish to the defendant reports prepared pursuant to section 12.1-04.1-10, and the defendant shall furnish to the prosecuting attorney reports by each tier 1a mental health professional or other expert on any aspect of the defendant's mental condition whom the defendant intends to call at trial. Upon application by either party and after hearing, the court may require production of documents prepared, completed, or used in the examination or inquiry by the tier 1a mental health professional or other expert.

SECTION 13. AMENDMENT. Section 12.1-04.1-12 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-12. Use of reports at trial.

Use at trial of a report prepared by a tier 1a mental health professional or other expert is governed by the North Dakota Rules of Evidence. A report of a tier 1a mental health professional or other expert furnished by the defendant pursuant to section 12.1-04.1-10 may not be used at trial unless the tier 1a mental health professional or other expert who prepared the report has been called to testify by the defendant.

SECTION 14. AMENDMENT. Section 12.1-04.1-13 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-13. Notice of expert witnesses.

Not less than twenty days before trial, each party shall give written notice to the other of the name and qualifications of each tier 1a mental health professional or other individual the respective party intends to call as an expert witness at trial on the issue of lack of criminal responsibility or requisite state of mind as an element of the crime charged. For good cause shown, the court may permit later addition to or deletion from the list of individuals designated as expert witnesses.

SECTION 15. AMENDMENT. Section 12.1-04.1-14 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-14. Use of evidence obtained from examination.

1. Except as provided in subsection 2 and in sections 12.1-04.1-09 and 12.1-04.1-26, information obtained as a result of examination of a defendant by a tier 1a mental health professional conducted under section 12.1-04.1-05 is not admissible over objection of the defendant in any proceeding against the defendant.
2. Subject to the limitation in section 12.1-04.1-15, information obtained from an examination of the defendant by a tier 1a mental health professional conducted under section 12.1-04.1-05 is admissible at trial to rebut evidence introduced by the defendant obtained from an examination of the defendant by a tier 1a mental health professional or to impeach the defendant on the defendant's testimony as to mental condition at the time of the alleged offense.

SECTION 16. AMENDMENT. Section 12.1-04.1-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-15. Use of recording of examination.

Except as provided in section 12.1-04.1-09, recording of an examination of the defendant concerning the defendant's mental condition at the time of the alleged offense may be referred to or otherwise used only on cross-examination for the purpose of impeachment of the tier 1a mental health professional who conducted the examination and then on redirect examination of that witness to the extent permitted by the North Dakota Rules of Evidence. The defendant must make the recording available to the prosecuting attorney before any use of it pursuant to this section. If the recording is so used, this section does not preclude its use for the purpose of impeachment of the defendant in any other criminal, civil, or administrative proceeding.

SECTION 17. AMENDMENT. Section 12.1-04.1-22 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-22. Initial order of disposition - Commitment to treatment facility - Conditional release - Discharge.

1. The court shall conduct a dispositional hearing within ninety days after an order of commitment pursuant to section 12.1-04.1-21 is entered, unless the court, upon application of the prosecuting attorney or the individual committed, for cause shown, extends the time for the hearing. The court shall enter an initial order of disposition within ten days after the hearing is concluded.
2. In a proceeding under this section, unless excused by order of the court, defense counsel at the trial shall represent the individual committed.
3. If the court finds ~~that~~ the individual lacks sufficient financial resources to retain the services of a tier 1a mental health professional and that those services are not otherwise available, ~~it~~the court shall authorize reasonable expenditures from public funds for the individual's retention of the services of one or more tier 1a mental health professionals to examine the individual and make other inquiry concerning the individual's mental condition.
4. In a proceeding under this section, the individual committed has the burden of proof by a preponderance of the evidence. The court shall enter an order in accordance with the following requirements:
   a. If the court finds ~~that~~ the individual is not mentally ill or defective or that there is not a substantial risk, as a result of mental illness or defect, that the individual will

commit a criminal act, ~~it~~the court shall order the ~~person~~individual discharged from further constraint under this chapter.

b. If the court finds ~~that~~ the individual is mentally ill or defective and ~~that~~ there is a substantial risk, as a result of mental illness or defect, that the individual will commit a criminal act of violence threatening another individual with bodily injury or inflicting property damage and that the individual is not a proper subject for conditional release, ~~it~~the court shall order the individual committed to a treatment facility for custody and treatment. If the court finds ~~that~~ the risk ~~that~~ the individual will commit an act of violence threatening another individual with bodily injury or inflicting property damage will be controlled adequately with supervision and treatment if the individual is conditionally released and that necessary supervision and treatment are available, ~~it~~the court shall order the ~~person~~individual released subject to conditions it considers appropriate for the protection of society.

c. If the court finds ~~that~~ the individual is mentally ill or defective and ~~that~~ there is a substantial risk, as a result of mental illness or defect, that the individual will commit a criminal act not included in subdivision b, ~~it~~the court shall order the individual to report to a treatment facility for noncustodial evaluation and treatment and to accept nonexperimental, generally accepted medical, psychiatric, or psychological treatment recommended by the treatment facility.

SECTION 18. AMENDMENT. Section 12.1-04.1-23 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04.1-23. Terms of commitment - Periodic review of commitment.

1. Unless an order of commitment of an individual to a treatment facility provides for special terms as to custody during commitment, the director or superintendent of the treatment facility may determine from time to time the nature of the constraints necessary within the treatment facility to carry out the court's order. In an order of commitment, the court may authorize the director or superintendent to allow the individual a limited leave of absence from the treatment facility on terms the court may direct.

2. In an order of commitment of an individual to a treatment facility under this chapter, the court shall set a date for review of the status of the individual. The date set must be within one year after the date of the order.
3. At least sixty days before a date for review fixed in a court order, the director or superintendent of the treatment facility shall inquire as to whether the individual is presently represented by counsel and file with the court a written report of the facts ascertained. If the individual is not represented by counsel, counsel must be provided at public expense to consult with the individual and, if the individual is indigent, to seek arrangement of counsel at public expense to represent the individual in a proceeding for conditional release or discharge.
4. If the court finds in a review ~~that~~ the individual lacks sufficient financial resources to retain the services of a tier 1a mental health professional and ~~that~~ those services are otherwise not available, the court shall authorize reasonable expenditures from public funds for the individual's retention of the services of one or more tier 1a mental health professionals to examine the individual and make other inquiry concerning the individual's mental condition. In proceedings brought before the next date for review, the court may authorize expenditures from public funds for that purpose.
5. If an application for review of the status of the individual has not been filed by the date for review, the director or superintendent shall file a motion for a new date for review to be set by the court. The date set must be within one year after the previous date for review.

SECTION 19. AMENDMENT. Section 25-01-01 of the North Dakota Century Code is amended and reenacted as follows:

25-01-01. Definitions.

In this title, unless the context or subject matter otherwise requires:

1. ~~"Defective delinquent" means an incompetent mentally deficient person over eighteen years of age who has been found, in accordance with the procedures established in chapter 25-04, to have demonstrated a pattern of aggravated antisocial behavior such as to present a probable peril to the life, person, or property of others, or who has given substantial evidence of continuing propensity for such behavior.~~

~~2.~~ "Licensed physician" means an individual licensed under the laws of this state to practice medicine and also means a medical officer of the government of the United States while in this state in the performance of the physician's official duties.

~~3. "Mentally deficient person" means any person, minor or adult other than a mentally ill person, who is so mentally defective as to be incapable of managing that person's affairs and to require supervision, control, and care for that person's own or the public welfare.~~

~~4.~~2. "Mentally ill individual" means an individual having a psychiatric or other disease which substantially impairs the individual's mental health.

~~5.~~3. "North Dakota vision services - school for the blind" means the North Dakota vision services - school for the blind as maintained under section 25-06-01.

~~6.~~4. "School for the deaf" means the school for the deaf of North Dakota.

~~7.~~5. "State hospital" means the state hospital for the mentally ill.

~~8.~~6. "Superintendent" means the superintendent of the state hospital, of the life skills and transition center, of North Dakota vision services - school for the blind, or of the school for the deaf, as the case may be.

~~9.~~7. "Supervising officer" means the executive director of the department of human services or the superintendent of public instruction, as the case may be.

8. "Tier 1 mental health professional" means a tier 1a or tier 1b mental health professional.

   a. A tier 1a mental health professional is a psychiatrist licensed under chapter 43-17 or a psychologist licensed under chapter 43-32.

   b. A tier 1b mental health professional is a licensed physician or a physician assistant licensed under chapter 43-17 or an advanced practice registered nurse licensed under chapter 43-12.

9. "Tier 2 mental health professional" means a tier 2a or a tier 2b mental health professional.

   a. A tier 2a mental health professional is an independent clinician who is a licensed independent clinical social worker licensed under chapter 43-41 or a licensed professional clinical counselor licensed under chapter 43-47.

b. A tier 2b mental health professional is a licensed marriage and family therapist licensed under chapter 43-53, an addiction counselor licensed under chapter 43-45, or a registered nurse licensed under chapter 43-12.

10. "Tier 3 mental health professional" means a licensed associate professional counselor licensed under chapter 43-47, a licensed certified social worker licensed under chapter 43-41, a licensed professional counselor licensed under chapter 43-47, an associate marriage and family therapist licensed under chapter 43-53, an occupational therapist licensed under chapter 43-40, a licensed practical nurse licensed under chapter 43-12, a behavior analyst licensed or registered under chapter 43-32, a vocational rehabilitation counselor practicing under chapter 50-06.1, a school psychologist, or a human relations counselor.

11. "Tier 4 mental health professional" means a direct care associate or technician.

SECTION 20. AMENDMENT. Section 25-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-04. Screening and admission to a public treatment facility.

Under rules adopted by the department, screening of an individual to a public treatment facility for observation, diagnosis, care, or treatment for mental illness or chemical dependency must be performed, in person when reasonably practicable, by a regional human service center. This screening must be performed in the region where the individual is physically located. Upon the request of a court, a law enforcement official, a ~~qualified~~ mental health professional, the individual's legal guardian, a minor's parent or legal custodian, or the individual requesting services, the regional human service center shall conduct a screening. If a request for screening is made by a ~~qualified~~ mental health professional and the individual ~~that~~who is the subject of the screening does not authorize the disclosure of the individual's protected health information, upon the request of the regional human service center, any mental health professional who ~~has~~ treated the individual within the previous six months shall disclose, subject to the requirements of title 42, Code of Federal Regulations, part 2, to the human service center any relevant protected health information regarding that treatment. Upon receipt of the request, the regional human service center shall arrange for a screening of the individual and ~~must~~, if appropriate, shall treat the applicant~~,~~ or refer the applicant to the appropriate treatment facility. Upon admittance to a public treatment facility, the superintendent or director

shall immediately designate a ~~physician, psychiatrist, psychologist, advanced practice registered nurse,~~tier 1 or tier 2 mental health professional to examine the individual.

SECTION 21. AMENDMENT. Section 25-03.1-08 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-08. Application to state's attorney or retained attorney - Petition for involuntary treatment - Investigation by ~~qualified~~ mental health professional.

1. Any individual eighteen years of age or over shall present the information necessary for the commitment of an individual for involuntary treatment to the state's attorney of the county where the respondent is presently located, or which is the respondent's place of residence, or to an attorney retained by that applicant to represent the applicant throughout the proceedings. The attorney shall assist the applicant in completing the petition. The petition must be verified by affidavit of the applicant and contain assertions that the respondent is a person requiring the treatment; the facts, in detail, that are the basis of that assertion; the names, telephone numbers, and addresses, if known, of any witnesses to those facts; and, if known, the name, telephone number, and address of the nearest relative or guardian of the respondent, or, if none, of a friend of the respondent.
2. The petition may be accompanied by any of the following:
   a. A written statement supporting the petition from a ~~psychiatrist, physician, physician assistant, psychologist, advanced practice registered nurse,~~tier 1 mental health professional or an addiction counselor who is practicing within the professional scope of practice and who has personally examined the respondent within forty-five days of the date of the petition.
   b. One or more supporting affidavits otherwise corroborating the petition.
3. In assisting the applicant in completing the petition, the state's attorney may direct a ~~qualified~~tier 1 or tier 2 mental health professional designated by the regional human service center to investigate and evaluate the specific facts alleged by the applicant. The investigation must be completed as promptly as possible and include observations of and conversation with the respondent, unless the respondent cannot be found or refuses to meet with the mental health professional. A written report of the results of the investigation must be delivered to the state's attorney. Copies of the

report must be made available upon request to the respondent, the respondent's counsel, and any expert examiner conducting an examination under section 25-03.1-11. The state's attorney or retained attorney shall file the petition if the information provided by the petitioner or gathered by investigation provides probable cause to believe ~~that~~ the subject of the petition is a person requiring treatment. A state's attorney who determines there are insufficient grounds for filing a petition may refer the applicant to other community resources. A state's attorney's decision not to institute proceedings may be reviewed under section 11-16-06.

SECTION 22. AMENDMENT. Section 25-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-10. Involuntary treatment - Court-ordered examination.

If the petition is not accompanied by a written supportive statement of a ~~psychiatrist, physician, physician assistant, psychologist, advanced practice registered nurse,~~tier 1 mental health professional or an addiction counselor who has examined the respondent within the last forty-five days, the court shall order the respondent ~~to~~ be examined by an expert examiner of the respondent's own choice or one appointed by the court. The order must state the date and time within which the respondent must appear; the address to which the respondent is to report; a statement that if the respondent fails to appear at the appointed place at or before the ordered date and time, the respondent may be involuntarily taken into custody and transported to the appointed place; and a statement ~~that~~ the expert examiner may consult with or request participation in the examination by a ~~qualified~~ mental health professional and may include with the written examination report any findings or observations by that mental health professional. Accompanying the order must be an explanation of the intended uses and possible effects of this examination. The examination may be conducted at a treatment facility, at the respondent's home, or at any other suitable place in the community. A request for examination at the state hospital must be screened and approved by a regional human service center. The respondent may be accompanied by one or more relatives or friends at the place of the examination. The costs of the court-ordered examination must be borne by the county that is the respondent's place of residence.

SECTION 23. AMENDMENT. Section 25-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-11. Involuntary treatment - Examination - Report.

1. The respondent must be examined within a reasonable time by an expert examiner as ordered by the court. If the respondent is taken into custody under the emergency treatment provisions of this chapter, the examination must be conducted within twenty-four hours, exclusive of holidays, of custody. Any expert examiner conducting an examination under this section may consult with or request participation in the examination by any ~~qualified~~ mental health professional and may include with the written examination report any findings or observations by that mental health professional. This examination report, and that of the independent examiner, if one has been requested, must be filed with the court. The report must contain:
   a. Evaluations of the respondent's physical condition and mental status.
   b. A conclusion as to whether the respondent is a person requiring treatment, with a clear explanation of how that conclusion was derived from the evaluation.
   c. If the report concludes ~~that~~ the respondent is a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
   d. The signature of the examiner who prepared the report.
2. For purposes of any examination conducted pursuant to this section:
   a. An evaluation of a respondent's physical condition may be made only by a ~~licensed physician, physician assistant, psychiatrist, or advanced practice registered nurse~~tier 1b mental health professional.
   b. An evaluation of a respondent's mental status may be made only by a ~~licensed physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program~~tier 1 mental health professional.
   c. An evaluation of whether the respondent is chemically dependent may be made only by a ~~licensed physician, physician assistant, psychiatrist, advanced practice registered nurse,~~tier 1 mental health professional or a licensed addiction counselor~~, or licensed psychologist trained in a clinical program~~.
3. If the expert examiner concludes ~~that~~ the respondent is not a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the expert examiner concludes ~~that~~ the

respondent is a person requiring treatment, or makes no conclusion ~~thereon~~whether the respondent is a person requiring treatment, the court shall set a date for hearing and shall give notice of hearing to the persons designated in section 25-03.1-12. If the respondent is in custody and is alleged to be a person who is mentally ill or a person who is both mentally ill and chemically dependent, the preliminary hearing date must be within four days, exclusive of weekends and holidays, of the date the respondent was taken into custody through emergency commitment under section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If a preliminary hearing is not required, the treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served.

SECTION 24. AMENDMENT. Section 25-03.1-18.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-18.1. Court-authorized involuntary treatment with prescribed medication.

1. a. Upon notice and hearing, a ~~treating psychiatrist~~tier 1b mental health professional may request authorization from the court to treat an individual under a mental health treatment order with prescribed medication. The request may be considered by the court in an involuntary treatment hearing. As a part of the request, ~~the treating~~ a psychiatrist ~~and another licensed physician, physician assistant, psychiatrist, or advanced practice registered nurse not involved in the current diagnosis or treatment of the patient~~ or a final year psychiatric resident physician not involved in the current diagnosis or treatment of the patient shall certify:

   (1) That the proposed prescribed medication is clinically appropriate and necessary to effectively treat the patient and that the patient is a person requiring treatment;

   (2) That the patient was offered that treatment and refused it or that the patient lacks the capacity to make or communicate a responsible decision about that treatment;

(3) That prescribed medication is the least restrictive form of intervention necessary to meet the treatment needs of the patient; and

(4) That the benefits of the treatment outweigh the known risks to the patient.

b. The court shall inquire whether the patient has had a sufficient opportunity to adequately prepare to meet the issue of involuntary treatment with prescribed medication and, at the request of the patient, the court may continue the involuntary treatment hearing for a period not exceeding seven days or may appoint an independent expert examiner as provided in subsection 4.

2. a. Evidence of the factors certified under subsection 1 may be presented to the court at an involuntary treatment hearing held pursuant to sections 25-03.1-19 and 25-03.1-22, or at a separate hearing after motion and notice. The court in ruling on the requested authorization for involuntary treatment with prescribed medication shall consider all relevant evidence presented at the hearing, including:

(1) The danger the patient presents to self or others;

(2) The patient's current condition;

(3) The patient's treatment history;

(4) The results of previous medication trials;

(5) The efficacy of current or past treatment modalities concerning the patient;

(6) The patient's prognosis; and

(7) The effect of the patient's mental condition on the patient's capacity to consent.

b. Involuntary treatment with prescribed medication may not be authorized by the court solely for the convenience of facility staff or for the purpose of punishment.

3. If the factors certified under subsection 1 have been demonstrated by clear and convincing evidence, the court may include in its involuntary treatment order a provision, or it may issue a separate order after notice and hearing, authorizing the ~~treating psychiatrist~~ tier 1b mental health professional to involuntarily treat the patient with prescribed medication on such terms and conditions as are appropriate. The order for involuntary treatment with prescribed medication, however, may not be in effect for more than ninety days.

4. If a patient has requested an examination by an independent expert examiner under this chapter, and if the ~~treating psychiatrist~~tier 1b mental health professional has requested authorization for involuntary treatment with prescribed medication, only a psychiatrist or final year psychiatric resident physician may independently examine the patient as to the issue of involuntary treatment with prescribed medication.

SECTION 25. AMENDMENT. Section 32-03-48 of the North Dakota Century Code is amended and reenacted as follows:

32-03-48. Definitions.

As used in sections 32-03-48 through 32-03-50, unless the context otherwise requires:

1. "Critical incident" means any event encountered by emergency service personnel within the scope of their employment which causes them to experience unusually strong emotional reactions that have the potential to interfere with their ability to perform their jobs or that may interfere with their personal lives.
2. "Critical incident stress debriefing" means the process of resolving the effects of critical incidents on emergency service personnel through a structured meeting with both psychological and educational components according to the model approved by the state department of health.
3. "Critical incident stress management team" means those volunteers who are recognized by the state department of health as members of an organized group that provides critical incident stress debriefing services on behalf of the state.
4. "Emergency service personnel" means individuals who provide emergency services to persons requiring medical aid, firefighting services, law enforcement assistance, or other emergency assistance. The term includes law enforcement officers, firefighters, rescue personnel, ambulance personnel, quick response personnel, emergency service dispatchers, nurses, physicians, and other emergency care providers.
5. ~~"Mental health personnel" means psychiatrists, licensed psychologists, licensed social workers, licensed mental health counselors, nurses, members of the clergy, and other individuals approved by the state department of health to function as members of a critical incident stress management team, who have completed appropriate training as approved by the department.~~

~~6.~~ "Peer support personnel" means those members of a critical incident stress management team who are emergency service personnel and who have completed appropriate training approved by the state department of health.

SECTION 26. AMENDMENT. Subdivision b of subsection 1 of section 43-48-15 of the North Dakota Century Code is amended and reenacted as follows:

b. Being convicted of an offense, as defined by ~~subsection 20 of~~ section 12.1-01-04, and which the board determines has a direct bearing upon a person's ability to serve the public as a licensed clinical laboratory personnel or, following the conviction of any offense, if the board determines that the person is not sufficiently rehabilitated.

SECTION 27. AMENDMENT. Section 49-10.1-05 of the North Dakota Century Code is amended and reenacted as follows:

49-10.1-05. Railroad police.

Railroad police officers who are designated by a railroad to be licensed under the laws of this state, while engaged in their employment with the railroad, have the authority of a "law enforcement officer" ~~pursuant to subsection 17 of~~ as defined under section 12.1-01-04 for the purpose of arresting any person committing a felony on railroad property or associated with railroad equipment, or to arrest a person committing a misdemeanor involving railroad property or relating to persons or property being transported by the railroad, or awaiting transportation by the railroad, and ~~have the power of removing~~may remove an individual from a train who has no right to be there, or who is engaging in a conduct prohibited by title 12.1.

SECTION 28. AMENDMENT. Section 50-25.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-03. Persons required and permitted to report - To whom reported.

1. Any ~~physician, nurse,~~ dentist~~,~~; optometrist~~,~~; dental hygienist~~,~~; medical examiner or coroner~~,~~; tier 1 mental health professional, tier 2 mental health professional, tier 3 mental health professional, or tier 4 mental health professional as defined under section 25-01-01; or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, ~~addiction counselor, social worker,~~ child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, division of juvenile

services employee, or member of the clergy having knowledge of or reasonable cause to suspect ~~that~~ a child is abused or neglected, or has died as a result of abuse or neglect, shall report the circumstances to the department if the knowledge or suspicion is derived from information received by that ~~person~~individual in that ~~person's~~individual's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.

2. Any person having reasonable cause to suspect ~~that~~ a child is abused or neglected, or has died as a result of abuse or neglect, may report such circumstances to the department.

3. A person ~~who has~~having knowledge of or reasonable cause to suspect ~~that~~ a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, shall report the circumstances to the department.

SECTION 29. AMENDMENT. Section 50-25.2-03 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-03. Reporting of abuse or neglect - Method of reporting.

1. Any medical or mental health professional or personnel, law enforcement officer, firefighter, member of the clergy, or caregiver having knowledge ~~that~~ a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, shall report the information to the department or the department's designee or to an appropriate law enforcement agency if the knowledge is derived from information received by that ~~person~~individual in that ~~person's~~individual's official or professional capacity. A member of the clergy, however, is not required to report the information if the knowledge is derived from information received in the capacity of spiritual adviser. For purposes of this subsection, "medical or mental health professional or personnel" means a professional or personnel providing health care or services to a vulnerable adult, on a full-time or part-time basis, on an individual basis or at the request of a caregiver, and includes a ~~physician, nurse,~~ medical examiner, coroner, dentist, dental hygienist, optometrist, pharmacist, chiropractor, podiatrist, physical therapist, occupational therapist, ~~addiction counselor, counselor, marriage and family therapist,~~

tier 1 through tier 4 mental health professional as defined under section 25-01-01, ~~social worker, mental health professional,~~ emergency medical services personnel, hospital personnel, nursing home personnel, congregate care personnel, or any other person providing medical and mental health services to a vulnerable adult.

2. A report, if required by section 25-01.3-04, satisfies all reporting requirements of this chapter.

3. Any person not required to report under subsection 1 who has reasonable cause to believe that a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, may report the information to the department or the department's designee or to an appropriate law enforcement agency. A law enforcement agency receiving a report under this section shall immediately notify the department or the department's designee of the report.

4. ~~A person~~An individual required to report under subsection 1 shall make an oral or written report and a person voluntarily reporting under subsection 2 may make an oral or written report, as soon as possible. To the extent reasonably possible, a person who makes a report under this section shall include in the report:

   a. The name, age, and residence address of the alleged vulnerable adult;

   b. The name and residence address of the caregiver, if any;

   c. The nature and extent of the alleged abuse or neglect or the conditions and circumstances that would reasonably be expected to result in abuse or neglect;

   d. Any evidence of previous abuse or neglect, including the nature and extent of the abuse or neglect; and

   e. Any other information ~~that~~ in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse or neglect and the identity of the individual responsible for the alleged abuse or neglect.

SECTION 30. AMENDMENT. Section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-01-01. General definitions.

As used in this title, unless the context otherwise requires:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses voltage for the defense of an individual, unless the device uses a projectile and voltage, then the term includes the device for an individual who is prohibited from possessing a firearm under this title. However, the term includes a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident.
2. "Direct supervision of an adult" means that an adult is present in such close proximity so as to be capable of observing and directing the actions of the individual supervised.
3. "Firearm" or "weapon" means any device which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such device, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon. For a felon who is not sentenced under section 12.1-32-09.1, the term does not include a firearm or weapon that is a rifle that has a barrel sixteen inches [40.64 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72 centimeters] or longer and which is one of the following:
   a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899.
   b. A replica of any firearm described in subdivision a, if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or conventional centerfire fixed ammunition that is no longer

manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

c. A muzzleloading rifle or muzzleloading shotgun that is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

4. "Gaming site" means any room or premises licensed by the attorney general or by a city or county governing body to conduct legal gaming operations.

5. "Government building" means a building which is owned, possessed, or used by or leased to the state of North Dakota, or any of its political subdivisions.

6. "Handgun" means any firearm that is not designed to be fired from the shoulder, which has a barrel less than sixteen inches [40.64 centimeters] long, and which is capable of firing, by the energy of an explosive in a fixed metallic cartridge, an exposed projectile through a rifled bore. The term includes all firearms that are designed to be readily modified between rifle and pistol forms, if in compliance with the National Firearms Act [26 U.S.C. 5801-5872].

7. "Law enforcement officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.

8. "Machine gun, submachine gun, or fully automatic rifle" means a firearm, mechanism, or instrument not requiring that the trigger be pressed for each shot, and having a reservoir, belt, or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism, or instrument and fired therefrom at a rate of five or more shots to the second.

9. <u>"Mentally deficient individual" means any individual, minor or adult other than a mentally ill individual, who is so mentally defective as to be incapable of managing that individual's affairs and to require supervision, control, and care for that individual's own or the public welfare.</u>

<u>10.</u> "Plain view" means the handgun is placed in such a location or carried in such a position as to be easily discernible by the ordinary observation of a passerby. In a motor vehicle, this includes being placed on the seat, dashboard, or in a gunrack as long as the handgun is not covered or is in any other way concealed from view.

~~10.~~11. "Rifle" means any firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger.

~~11.~~12. "Secured" means the firearm is closed into the trunk or nonpassenger part of the vehicle; placed into a closed and secure carrying device; rendered inoperative by the use of a trigger, hammer, cylinder, slide, or barrel-locking device that renders the firearm incapable of firing until the device is unlocked and removed; or so disassembled or disabled as to be rendered incapable of firing.

~~12.~~13. "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches [40.64 centimeters] in length and any firearm made from a rifle, whether by alteration, modification, or otherwise, if the firearm, as modified, has an overall length of less than twenty-six inches [66.04 centimeters].

~~13.~~14. "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches [45.72 centimeters] in length and any firearm made from a shotgun, whether by alteration, modification, or otherwise, if the firearm, as modified, has an overall length of less than twenty-six inches [66.04 centimeters].

~~14.~~15. "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired with one hand below or behind and one hand in front of the breach, which uses the energy of the explosive in a fixed shotgun shell to fire through a smooth or a rifled bore either a number of ball shot or a single projectile for each single pull of the trigger.

~~15.~~16. "Silencer" means any device for or attached to any firearm which will silence or deaden the sound or natural report of the firearm when it is discharged.

~~16.~~17. "Unloaded" means the chamber of the firearm does not contain a loaded shell. If the firearm is a revolver, then none of the chambers in the cylinder may contain a loaded shell.

SECTION 31. AMENDMENT. Subdivisions b and c of subsection 1 of section 62.1-02-01 of the North Dakota Century Code are amended and reenacted as follows:

b. A person who has been convicted anywhere of a felony offense of this or another state or the federal government not provided for in subdivision a or who has been convicted of a class A misdemeanor offense involving violence or intimidation in

violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government and the offense was committed while using or possessing a firearm, a dangerous weapon, or, as defined in ~~subsections 7 and 8 of~~ section 12.1-01-04, a destructive device or an explosive, is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of five years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.

c. A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under section 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or as a mentally deficient ~~person as defined in section 25-01-01~~individual, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years or who has successfully petitioned for relief under section 62.1-02-01.2.

SECTION 32. AMENDMENT. Subdivision b of subsection 1 of section 62.1-02-01.2 of the North Dakota Century Code is amended and reenacted as follows:

b. Finds that a person is a ~~"mentally deficient person", as defined in subsection 3 of section 25-01-01~~mentally deficient individual;