

February 13, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1453

Page 1, line 1, replace the second "and" with a comma

Page 1, line 1, after "25-03.1-07" insert ", 25-03.1-17, 25-03.1-21, and 25-03.1-30"

Page 1, line 2, after "procedures" insert "and alternative treatment orders"

Page 3, line 5, remove "neurological."

Page 4, line 7, replace "forty-five" with "thirty"

Page 5, after line 20, insert:

**"SECTION 3. AMENDMENT.** Section 25-03.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.1-17. Involuntary treatment - Right to preliminary hearing.**

1. A respondent who is in custody under section 25-03.1-25 and who is alleged to be a mentally ill person or to be a person who is both mentally ill and chemically dependent is entitled to a preliminary hearing.
  - a. At the preliminary hearing the ~~magistrate~~court shall review the medical report. During the hearing the court shall allow the petitioner and the respondent ~~must be afforded~~ an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any other interested person. The ~~magistrate~~court may receive evidence that would otherwise be inadmissible at a treatment hearing.
  - b. At the conclusion of the hearing, if the court does not find probable cause to believe ~~that the individual is a person requiring treatment, the petition must be dismissed. The individual must be ordered discharged from the~~ court shall dismiss the petition and order the respondent be discharged from the treatment facility if that individual has been the respondent was detained before the hearing.
2. If the court finds probable cause to believe ~~that the respondent is a person requiring treatment, if~~ the court shall consider less restrictive alternatives to involuntary detention and treatment.
  - a. The court may ~~then~~ order the respondent to undergo up to fourteen days' treatment under a less restrictive alternative or, if ~~if~~ the court finds ~~that~~ alternative treatment is not in the best interests of the respondent or others, ~~if~~ the court shall order the respondent detained for up to fourteen days for involuntary treatment in a treatment facility.
  - b. The court shall specifically state to the respondent and give written notice that if involuntary treatment beyond the fourteen-day period is to be sought, the respondent will have the right to a treatment hearing as required by this chapter.

**SECTION 4. AMENDMENT.** Section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.1-21. Involuntary treatment order - Alternatives to hospitalization - Noncompliance with alternative treatment order - Emergency detention by certain professionals - Application for continuing treatment order.**

1. Before ~~making its~~the court makes a decision in an involuntary treatment hearing, the court shall review a report assessing the availability and appropriateness for the respondent of treatment programs other than hospitalization which has been prepared and submitted by the state hospital or treatment facility. If the court finds ~~that a treatment program other than hospitalization is adequate to meet the respondent's treatment needs and is sufficient to prevent harm or injuries which the individual may inflict upon the individual or others~~serious risk of harm, the court shall order the respondent to receive whatever treatment, other than hospitalization, is appropriate for a period of ninety days.
2. If the respondent is not complying with the alternative treatment order or the alternative treatment has not been sufficient to prevent ~~harm or injuries that the individual may be inflicting upon the individual or others~~serious risk of harm, the department, a representative of the treatment program involved in the alternative treatment order, the petitioner's retained attorney, or the state's attorney may apply to the court or to the district court of a different judicial district in which the respondent is located to modify the alternative treatment order. The court shall hold a hearing within seven days after the application is filed. Based upon the evidence presented at hearing and other available information, the court may:
  - a. Continue the alternative treatment order;
  - b. Consider other alternatives to hospitalization, modify the court's original order, and direct the ~~individual to~~respondent undergo another program of alternative treatment for the remainder of the ninety-day period; or
  - c. Enter a new order directing ~~that the individual~~the respondent be hospitalized until discharged from the hospital under section 25-03.1-30. If the ~~individual~~respondent refuses to comply with this hospitalization order, the court may direct a peace officer to take the ~~individual~~respondent into protective custody and transport the respondent to a treatment facility.
3. If a peace officer, physician either in person or directing an emergency medical services professional, ~~psychiatrist, physician assistant, clinical psychologist, advanced practice registered nurse,~~ or any mental health professional reasonably believes that the respondent is not complying with an order for alternative treatment, that the alternative treatment is not sufficient to prevent serious risk of harm or injuries to the respondent or others, and that considerations of time and safety do not allow intervention by a court, the designated professional may cause the respondent to be taken into custody and detained at a treatment facility as provided in subsection 3 of section 25-03.1-25 and, within twenty-four hours, shall file a notice with the court stating the circumstances and factors of the case. The state hospital or public treatment facility ~~shall~~ immediately shall

accept, if appropriately screened and medically stable, and a private treatment facility may accept, the respondent on a provisional basis. The superintendent or director shall require an immediate examination of the respondent and, within twenty-four hours after admission, shall either release the respondent subject to the conditions of the original order or file a notice with the court stating in detail the circumstances and factors of the case. The court shall, within forty-eight hours of receipt of the notice of the superintendent or director, after a hearing and based on the evidence presented and other available information, shall:

- a. Release the ~~individual~~ respondent from hospitalization and continue the alternative treatment order;
  - b. Consider other alternatives to hospitalization, modify ~~it~~ the original order of the court, and direct the ~~individual to~~ respondent undergo another program of alternative treatment for the remainder of the commitment period; or
  - c. Enter a new order directing ~~that~~ the respondent remain hospitalized until discharged from the hospital under section 25-03.1-30.
4. If, at the date of expiration of an order of alternative treatment, it is believed ~~that~~ an individual continues to require treatment, a petition for a determination that the individual continues to be a person requiring treatment may be filed with the court where the individual is located.

**SECTION 5. AMENDMENT.** Section 25-03.1-30 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.1-30. Discharge of hospitalized patient - Transfer to alternative treatment - Termination of alternative treatment.**

1. The superintendent or director ~~may~~ at any time may discharge a voluntarily hospitalized patient who is clinically suitable for discharge.
2. The superintendent or director shall discharge a patient hospitalized by court order ~~when~~ if the patient's mental condition is such that the patient no longer is a person requiring treatment.
3. If a patient discharged under subsection 1 or 2 has been hospitalized by a court order, or if court proceedings are pending, the treatment facility shall notify the court ~~must be notified of the discharge by the treatment facility.~~
4. A person responsible for providing treatment, other than hospitalization, to an individual ordered to undergo a program of alternative treatment may terminate the alternative treatment if the patient is clinically suitable for termination of treatment. The person shall terminate the alternative treatment ~~when~~ if the patient no longer is a person requiring treatment and shall notify the court upon that termination.
5. If, upon the discharge of a hospitalized patient or the termination of alternative treatment of an individual under this chapter, the individual would benefit from further treatment, the hospital or provider of alternative treatment shall offer appropriate treatment on a voluntary basis or shall aid the individual to obtain treatment from another source on a voluntary basis.

- a. With the individual's consent, the superintendent or director shall notify the appropriate community agencies or persons of the release and of the suggested release plan. Community agencies include regional mental health centers, state and local counseling services, public and private associations ~~whose~~the function of which is to assist mentally ill or chemically dependent persons, and the individual's physician.
  - b. The agencies and persons notified of the individual's release shall report to the facility that initial contact with the individual has been accomplished.
6. If, before expiration of an initial treatment order, the superintendent or director determines ~~that~~ a less restrictive form of treatment ~~would be~~is more appropriate for a patient hospitalized by court order, the superintendent or director may petition the court ~~which~~that last ordered the patient's hospitalization to modify ~~its~~the order of the court. The petition must contain statements setting forth the reasons for the determination ~~that~~ the patient continues to ~~require~~be a person requiring treatment, the reasons for the determination ~~that~~ a less restrictive form of treatment ~~would be~~is more appropriate for the patient, and describing the recommended treatment program. If the patient consents, ~~the court may~~, without a hearing, the court may modify ~~its~~the treatment order of the court by directing the patient to undergo the agreed treatment program for the remainder of the treatment order. The patient must be given an opportunity to protest the discharge and modification of treatment order and to receive a hearing on the merits of the protest."

Page 5, line 22, remove "**EARLY**"

Page 5, line 22, after "**INTERVENTION**" insert "**BEFORE VIOLENCE**"

Page 5, line 22, after the boldfaced period, insert "1."

Page 5, line 23, after "procedures" insert "under chapters 25-03.1 and 25-03.2 and the behavioral health and civil justice systems"

Page 5, replace lines 25 through 29 with:

- a. Steps could be taken to prevent and decrease the incidence of violence committed by persons who are mentally ill, including the temporary removal of firearms; and
- b. Our behavioral health and civil justice systems could take steps to be more effective in intervening in the early stages of an individual's mental illness to treat the illness and avoid violence and possible contact with law enforcement.

2."

Renumber accordingly