

Introduced by

1 A BILL for an Act to amend and reenact sections 25-03.3-09 and 54-61-02 of the North Dakota
2 Century Code, relating to legal counsel in cases involving the commitment of sexually
3 dangerous individuals.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 25-03.3-09 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **25-03.3-09. Right to counsel - Waiver.**

- 8 1. Every respondent is entitled to legal counsel. Unless an appearance has been
9 entered on behalf of the respondent, the court, within twenty-four hours from the
10 time the petition was filed, exclusive of weekends or holidays, shall appoint counsel
11 to represent the respondent. If a respondent retains counsel, the retained counsel
12 immediately shall notify the court of that fact.
- 13 2. After consultation with counsel, the respondent may waive the right to counsel or
14 the right to any hearing provided pursuant to this chapter by notifying the court in
15 writing. The notification must clearly state the respondent's reasons for the waiver
16 and the respondent's counsel shall separately certify that counsel has explained to
17 the respondent the proceedings, the legal and factual issues, potential defenses,
18 the burden of proof, and possible outcomes of the proceedings. No guardian,
19 guardian ad litem, attorney, or other individual may waive the right to counsel on
20 behalf of an individual with mental retardation.
- 21 3. If the court determines that the respondent is indigent, the court shall ~~appoint~~
22 ~~counsel and order that appointed counsel be compensated by the county that is~~
23 ~~the respondent's place of residence in a reasonable amount based upon time and~~
24 ~~expenses~~ provided by the commission on legal counsel for indigents.

1 4. ~~The state's attorney of a county that has expended sums pursuant to subsection 3~~
2 ~~may seek civil recovery of those sums from property of the respondent.~~
3 ~~Commencement of the action must occur within six years after the date the sums~~
4 ~~were paid. After notice and hearing, the court may order an individual to reimburse~~
5 ~~the county for expenditures made on that individual's behalf pursuant to this~~
6 ~~chapter.~~

7 **SECTION 2. AMENDMENT.** Section 54-61-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **54-61-02. Commission responsibilities.**

- 10 1. The commission shall:
- 11 a. Develop standards governing the delivery of indigent defense services,
12 including:
- 13 (1) Standards governing eligibility for indigent defense services;
14 (2) Standards for maintaining and operating regional public defender
15 offices if established;
16 (3) Standards prescribing minimum experience, training, and other
17 qualifications for contract counsel and public defenders;
18 (4) Standards for contract counsel and public defender caseloads;
19 (5) Standards for the evaluation of contract counsel and public defenders;
20 (6) Standards for independent, competent, and efficient representation of
21 clients whose cases present conflicts of interest;
22 (7) Standards for the reimbursement of expenses incurred by contract
23 counsel; and
24 (8) Other standards considered necessary and appropriate to ensure the
25 delivery of adequate indigent defense services.
- 26 b. Establish and implement a process of contracting for legal counsel services
27 for indigents.
- 28 c. Establish public defender offices in the regions of the state as the commission
29 considers necessary and appropriate.
- 30 d. Establish and implement a process for the administration, supervision, and
31 delivery of legal counsel services for indigents under section 25-03.3-09.

