

MENTAL AND PHYSICAL ILLNESS OR DISABILITY

CHAPTER 223

SENATE BILL NO. 2157

(Senators J. Lee, Larsen, Axness)
(Representatives Damschen, Weisz, Oversen)

AN ACT to amend and reenact subsection 3 of section 25-03.1-21 and subsection 1 of section 25-03.1-25 of the North Dakota Century Code, relating to the emergency commitment of mentally ill individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

3. If a peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, clinical psychologist, 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 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 must immediately 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:
 - a. Release the individual from hospitalization and continue the alternative treatment order;
 - b. Consider other alternatives to hospitalization, modify its original order, and direct the individual to 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.

SECTION 2. AMENDMENT. Subsection 1 of section 25-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

1. When a peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, psychologist, or mental health professional has reasonable cause to believe that an individual is a person requiring treatment and there exists a serious risk of harm to that person, other persons, or property of an immediate nature that considerations of safety do not allow preliminary intervention by a magistrate, the peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, psychologist, or mental health professional, using the screening process set forth in section 25-03.1-04, may cause the person to be taken into custody and detained at a treatment facility as provided in subsection 3, and subject to section 25-03.1-26, except that if emergency conditions exist that prevent the immediate conveyance of the individual to a public treatment facility, a private facility that has adequate resources and capacity to hold that individual may hold the individual in anticipation of conveyance to a public treatment facility for up to twenty-three hours:
 - a. Without conducting an immediate examination required under section 25-03.1-26; and
 - b. Without following notice and hearing requirements for a transfer to another treatment facility required under subsection 3 of section 25-03.1-34.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 224

SENATE BILL NO. 2068

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 25-03.2-03.1 of the North Dakota Century Code, relating to residential child care facility bed capacity and psychiatric residential treatment facility bed capacity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.2-03.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-03.1. Moratorium on expansion of psychiatric residential treatment facility for children bed capacity - Exchange of bed capacity.

1. Notwithstanding sections 25-03.2-03 and 25-03.2-08, unless a needs assessment conducted by the department indicates a need for the licensing of additional bed capacity, the department may not issue a license under this chapter for any additional bed capacity for a psychiatric residential treatment facility for children above the state's gross number of beds licensed as of June 30, 2003. This ~~section~~subsection does not apply to nor prohibit the department from licensing additional bed capacity for a new psychiatric residential treatment facility for children if the additional beds are designated for the care of children and adolescents who are residents of other states.
2. Notwithstanding subsection 1, the department may develop a policy to:
 - a. Exchange residential child care facility bed capacity licensed under chapter 50-11 with psychiatric residential treatment facility bed capacity; or
 - b. Exchange psychiatric residential treatment facility bed capacity with residential child care facility bed capacity licensed under chapter 50-11.

Approved April 12, 2013

Filed April 12, 2013

CHAPTER 225

SENATE BILL NO. 2198

(Senators Miller, Armstrong, Hogue)
(Representatives Becker, K. Koppelman, Toman)

AN ACT to create and enact a new section to chapter 25-03.3 of the North Dakota Century Code, relating to annual reviews and petitions for discharge during a period of imprisonment; and to amend and reenact section 12.1-04-07 of the North Dakota Century Code, relating to reports regarding a defendant's fitness to proceed in a criminal proceeding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-04-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-07. Report - Hearing when contested.

1. The report of the examining psychiatrists or psychologists must be given in writing to the court within three days of expiration of the period of commitment or, if the defendant is not committed, within thirty days after the outpatient evaluation. The court shall cause copies to be delivered to the prosecutor and counsel for the defendant.
2. The report must include:
 - a. The identity of the individuals interviewed and records and other information considered.
 - b. Procedures, tests, and techniques utilized in the assessment.
 - c. The date and time of the examination of the defendant, and the identity of each individual present during the examination.
 - d. The relevant information obtained, other information not obtained which the examiner believes may be relevant, and the findings made.
 - e. An opinion as to whether the defendant is fit to proceed or is unable to effectively communicate with counsel and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future.
3. If the findings of the report are contested, the court shall hold a hearing prior to deciding whether the defendant currently lacks fitness to proceed or currently lacks ability to effectively communicate with counsel and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future. Upon hearing, the prosecution and defense have the right to summon and cross-examine the persons responsible for the report and to offer evidence upon the issues.

SECTION 2. A new section to chapter 25-03.3 of the North Dakota Century Code is created and enacted as follows:

Annual review - Petition for discharge - Inapplicability during periods of imprisonment.

Sections 25-03.3-17 and 25-03.3-18 do not apply if a respondent, during a period of commitment under this chapter, is transferred to the custody of the department of corrections and rehabilitation in accordance with section 29-27-07 or is serving a term of imprisonment in a county jail or regional corrections center. Upon release from imprisonment, the respondent must be retransferred to the care, custody, and control of the executive director. Upon retransfer, the respondent is entitled to a review to determine whether continued commitment under this chapter is warranted.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 226

SENATE BILL NO. 2069

(Government and Veterans Affairs Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 25-04 of the North Dakota Century Code, relating to directing the legislative council to change the name of the developmental center at westwood park, Grafton, to the life skills and transition center.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 25-04 of the North Dakota Century Code is created and enacted as follows:

Life skills and transition center to be substituted for developmental center at westwood park, Grafton.

The legislative council shall delete, where appropriate, "developmental center at westwood park, Grafton", "developmental center", or any derivatives of those terms, which when used in context indicate an intention to refer to those terms, wherever they appear in the North Dakota Century Code, in supplements to the North Dakota Century Code, and in the North Dakota Administrative Code, and to insert in lieu of each deletion "life skills and transition center" or an appropriate derivative of that phrase. These changes are to be made when any volume or supplement of the North Dakota Century Code is being reprinted. Life skills and transition center is to be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the developmental center at westwood park, Grafton.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 227

SENATE BILL NO. 2172

(Senators J. Lee, Berry, Robinson)
(Representatives J. Nelson, Weisz, Hogan)

AN ACT to create and enact a new section to chapter 25-17 of the North Dakota Century Code, relating to newborn child screening for critical congenital heart defects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 25-17 of the North Dakota Century Code is created and enacted as follows:

Pulse oximetry screening for critical congenital heart defects - Exception.

Before discharge of a newborn child born in a hospital with a birthing center, the newborn child must receive a pulse oximetry screening for critical congenital heart defects. The screening requirement of this section does not apply if the parents of a newborn child object to the screening. The state department of health shall provide medical staff and facilities that provide birthing services with notice regarding this screening requirement. For purposes of this chapter, pulse oximetry screening is not a test under section 25-17-05 and a congenital heart defect detected by screening under this section is not a metabolic disease or genetic disease as those terms are used under this chapter.

Approved April 1, 2013
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