

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact sections 12.1-04-06 and 25-03.1-20, subsection 3 of
2 section 25-03.1-21, and section 25-03.1-26 of the North Dakota Century Code, relating to
3 examination, involuntary treatment, and commitment at the state hospital or life skills and
4 transition center.

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

6 **SECTION 1. AMENDMENT.** Section 12.1-04-06 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **12.1-04-06. Examination - Temporary commitment.**

9 ~~Whenever~~if there is reason to doubt the defendant's fitness to proceed, the court may order
10 the detention of the defendant for the purpose of an examination by a tier 1a mental health
11 professional. The detention must be in the least restrictive appropriate setting, including the
12 state hospital, the life skills and transition center, or other suitable facility for a reasonable
13 period, not to exceed thirty days, for such examination. The state hospital and the life skills and
14 transition center shall accept the defendant for such examination if the facility is below capacity.

15 In lieu of detention, the court may allow the defendant to remain in the defendant's present
16 residential setting or other suitable residential setting for the purpose of evaluation by a suitable
17 facility or personnel, subject to any reasonable limitation the court may impose. A human
18 service center may not be considered a suitable facility and may not be considered suitable
19 personnel under this section unless the court is aware an inquiry was made before the court
20 ordered the evaluation to ensure appropriate resources exist at the human service center being
21 ordered to conduct the evaluation. The court, by subsequent order and for good cause shown,
22 may extend the detention for a period not to exceed thirty additional days. While the defendant
23 is detained, the defendant's legal counsel, family, and others necessary to assist in the
24 defendant's case must have reasonable opportunity to examine and confer with the defendant.

1 **SECTION 2. AMENDMENT.** Section 25-03.1-20 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **25-03.1-20. Involuntary treatment hearing - Findings and dispositions.**

4 If an individual is found at the involuntary treatment hearing to be a person requiring
5 treatment, the findings and conclusions must be entered in the record of the proceedings and
6 the court may:

- 7 1. Order the individual to undergo a program of treatment other than hospitalization;
- 8 2. Order the individual hospitalized in a public institution, if below capacity; or
- 9 3. Order the individual hospitalized in any other private hospital if the attending physician
10 agrees. The reason supporting the court's particular treatment order must be entered
11 in the record.

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

- 14 3. If a peace officer, physician either in person or directing an emergency medical
15 services professional, psychiatrist, physician assistant, clinical psychologist, advanced
16 practice registered nurse, or any mental health professional reasonably believes that
17 the respondent is not complying with an order for alternative treatment, that the
18 alternative treatment is not sufficient to prevent harm or injuries to the respondent or
19 others, and that considerations of time and safety do not allow intervention by a court,
20 the designated professional may cause the respondent to be taken into custody and
21 detained at a treatment facility as provided in subsection 3 of section 25-03.1-25 and,
22 within twenty-four hours, shall file a notice with the court stating the circumstances and
23 factors of the case. ~~The~~ if below capacity, the state hospital or public treatment facility
24 shall immediately accept, if appropriately screened and medically stable, and a private
25 treatment facility may accept, the respondent on a provisional basis. The
26 superintendent or director shall require an immediate examination of the respondent
27 and, within twenty-four hours after admission, shall either release the respondent
28 subject to the conditions of the original order or file a notice with the court stating in
29 detail the circumstances and factors of the case. The court shall, within forty-eight
30 hours of receipt of the notice of the superintendent or director, after a hearing and
31 based on the evidence presented and other available information:

- 1 a. Release the individual from hospitalization and continue the alternative treatment
2 order;
- 3 b. Consider other alternatives to hospitalization, modify its original order, and direct
4 the individual to undergo another program of alternative treatment for the
5 remainder of the commitment period; or
- 6 c. Enter a new order directing that the respondent remain hospitalized until
7 discharged from the hospital under section 25-03.1-30.

8 **SECTION 4. AMENDMENT.** Section 25-03.1-26 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice -**
11 **Court hearing set.**

- 12 1. A public treatment facility immediately, if below capacity, shall accept and a private
13 treatment facility may accept on a provisional basis the application and the individual
14 admitted under section 25-03.1-25. The superintendent or director shall require an
15 immediate examination of the subject and, either within twenty-four hours, exclusive of
16 holidays, after admission or within seventy-two hours after admission, exclusive of
17 holidays, if the individual is admitted with a serious physical condition or illness that
18 requires prompt treatment, shall either:
 - 19 a. Release the individual if the superintendent or director finds that the subject does
20 not meet the emergency commitment standards; or
 - 21 b. File a petition if one has not been filed with the court of the individual's residence
22 or the court which directed immediate custody under subsection 2 of section
23 25-03.1-25, giving notice to the court and stating in detail the circumstances and
24 facts of the case.
- 25 2. Upon receipt of the petition and notice of the emergency detention, the magistrate
26 shall set a date for a preliminary hearing, if the respondent is alleged to be a person
27 who is mentally ill or a person who is both mentally ill and chemically dependent, or a
28 treatment hearing, if the respondent is alleged to be a person who is chemically
29 dependent, to be held no later than four days, exclusive of weekends and holidays,
30 after detention unless the person has been released as a person not requiring
31 treatment, has been voluntarily admitted for treatment, has requested or agreed to a

- 1 continuance, or unless the hearing has been extended by the magistrate for good
- 2 cause shown. The magistrate shall appoint counsel if one has not been retained by
- 3 the respondent.