

MENTALLY ILL AND DEFICIENT, TUBERCULAR, BLIND, AND DEAF

CHAPTER 268

S. B. No. 292
(Lips, Longmire)

ALCOHOLICS AND ADDICTS TREATED AT STATE HOSPITAL

AN ACT

To amend and reenact sections 25-03-08, 25-03-10, subsections 1, 3, 5, 6, and 7 of section 25-03-11, sections 25-03-18, 25-03-21, and 25-03-23 of the North Dakota Century Code to allow alcoholics and drug addicts to be admitted and treated at the state hospital.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Amendment.) Section 25-03-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-08. Hospitalization—Emergency Procedure.) Any health or police officer or licensed physician who has reason to believe that an individual is mentally ill, an alcoholic or a drug addict and because of his illness is likely to injure himself or others if allowed to remain at liberty pending examination may take the individual into custody, and in such case shall forthwith obtain the written or verbal consent of the county judge, or in his absence any member of the county mental health board, to apply to a hospital for his emergency admission and transport him thereto. If neither the county judge or a member of the county mental health board is available to give consent a licensed physician who has reason to believe that an individual is mentally ill, an alcoholic or a drug addict and because of his illness is likely to injure himself or others if allowed to remain at liberty pending examination may by written order direct an emergency admission to the state hospital or to a private

hospital. The application for admission and licensed physician's order directing emergency admission to the state hospital or to a private hospital shall state the circumstances under which the individual was taken into custody and the reason for the officer's or physician's belief. The head of the private hospital or the superintendent of the state hospital as the case may be shall require an immediate examination of such person be made, and if he determines that hospitalization is not warranted, he shall immediately discharge such patient.

Section 2. Amendment.) Section 25-03-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-10. Right to Release—Application for Judicial Determination.) Any patient involuntarily hospitalized under the provisions of section 25-03-08 who requests to be released or whose release is requested in writing by his legal guardian, spouse, or adult next of kin shall be released within five days after the receipt of such request. It is provided, however, that upon application by the superintendent of the state hospital, or the county judge who consented to the emergency admission, to the mental health board of either the county in which the patient is hospitalized or of the county of the patient's residence, within five days from the time of such request for release, supported by a certification by the superintendent of the state hospital or a county judge that in his opinion such release would be unsafe for the patient or others, release may be postponed for a period not to exceed twenty days as the chairman of the mental health board may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 25-03-11. The superintendent of the state hospital or county judge shall provide reasonable means and arrangements for informing patients of their right to release as provided in this section, and for assisting them in making and presenting requests for release. If an examination as required in section 25-03-08 is not held within twenty days after the date of admission to the state hospital or local hospital, or if the superintendent of the state hospital or local hospital or an examiner designated by him fails or refuses after such examination to certify that in his opinion the patient is mentally ill, an alcoholic or a drug addict or is likely to injure himself or

others if allowed to remain at liberty, the patient shall be immediately discharged.

Section 3. Amendment.) Subsections 1, 3, 5, 6, and 7 of section 25-03-11 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

25-03-11. Hospitalization Upon Order of Mental Health Board—Judicial Procedure.)

1. Proceedings for the involuntary hospitalization of an individual may be commenced by the filing of a written application with the mental health board by a friend, relative, spouse, or guardian of the individual, or by a licensed physician, police officer, state's attorney, a health or public welfare officer, or the head of any public or private institution in which the individual may be. Any such application, unless waived by the county judge, shall be accompanied by a certificate of a licensed physician stating that he has examined the individual and is of the opinion that he is mentally ill, an alcoholic or a drug addict and should be hospitalized, or a written statement by the applicant that the individual has refused to submit to or is unable to consent to an examination by a licensed physician.
3. As soon as practicable after notice of the commencement of proceedings is given or after determination that notice should be omitted, the mental health board shall appoint at least one licensed physician as an examiner who may or may not be a member of the county mental health board to examine the proposed patient and report to the board his findings as to the condition of the proposed patient and the need for his custody, care, or treatment in a mental hospital.
5. If the report of the designated examiner shows that the proposed patient is not mentally ill, an alcoholic or a drug addict, the mental health board may without taking any further action terminate the proceedings and dismiss the application; otherwise, it shall forthwith fix a date for and give notice to the persons designated in subsection 2 of this section of a hearing before the county mental health board to be held within ten days from receipt of the report.

6. The proposed patient, the applicant, and all other persons to whom notice is required to be given under subsection 2 of this section shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses, and the mental health board may in its discretion receive the testimony of any other person. The proposed patient shall not be required to be present unless he so desires and all persons not necessary for the conduct of the proceedings shall be excluded, except as the mental health board may admit persons having a legitimate interest in the proceedings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect upon the health of the proposed patient. The mental health board shall receive all relevant and material evidence which may be offered and shall not be bound by the rules of evidence. An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither he nor others provide counsel, the mental health board, upon request of the proposed patient, shall appoint counsel. If it is determined that the proposed patient is unable to pay for such counsel, the attorney fees, upon approval by the mental health board, shall be paid by the county.
7. If upon completion of the hearing and consideration of the record the mental health board finds that the proposed patient
 - a. Is mentally ill, an alcoholic or a drug addict and because of his illness is likely to injure others or himself if allowed to remain at liberty; or
 - b. Is in need of custody, care, or treatment in a mental hospital and, because of his illness, lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization,it shall order his hospitalization at the state hospital or other suitable place, or if it finds other-

wise it shall dismiss the proceedings. No person who is being treated by prayer in the practice of the religion of any well-recognized church, sect, denomination, or organization, shall be ordered detained or committed under the provisions of this chapter unless the county mental health board shall determine that he is or would likely become dangerous to himself or to the person or property of others, or unless, being an adult, he shall consent to such detention or commitment, or, being a minor, his parent or guardian having custody of his person shall consent thereto.

Section 4. Amendment.) Section 25-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-18. Right to Humane Care and Treatment—Penalties and Civil Liability for Mistreatment.) Every patient shall be entitled to humane care and treatment and, to the extent that facilities, equipment, and personnel are available, to medical care and treatment in accordance with the highest standards accepted in medical practice. Any person having the care of a mentally ill person, an alcoholic or a drug addict and restraining such person either with or without authority, who shall treat such person with undue severity or with harshness or cruelty, or who shall abuse such person in any way, shall be guilty of a misdemeanor, and shall be further liable in a civil action for damages. Any officer or person required to perform any act under the provisions of this chapter who willfully refuses or neglects to perform his duty as prescribed in this chapter shall be guilty of a misdemeanor and shall be liable in a civil action for damages.

Section 5. Amendment.) Section 25-03-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-21. Patients Entitled to Writ of Habeas Corpus.) All patients confined or hospitalized as mentally ill, alcoholics, drug addicts or as requiring treatment or observation in any hospital shall be entitled to the benefit of the writ of habeas corpus, and the question of mental illness, alcoholism, drug addiction or of the necessity for treat-

ment or observation in a hospital shall be decided at such hearing. If the court shall decide that the patient is mentally ill, an alcoholic, a drug addict or that he requires treatment or observation at a hospital, such decision shall not preclude a subsequent application for a writ or the issuing of a writ upon a subsequent application, if it shall be alleged that such patient shall have been cured or no longer needs hospitalization.

Section 6. Amendment.) Section 25-03-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-23. Detention Pending Judicial Determination—Detention Without Proper Authority Prohibited.) No person alleged to be mentally ill, an alcoholic, a drug addict or in need of treatment or observation shall be restrained or deprived of his liberty by any person except pursuant to authority provided in this chapter, or except in criminal proceedings as provided by law. However, a patient or proposed patient with respect to whom proceedings for judicial hospitalization have been commenced may be detained during the pendency of such proceedings unless his release or discharge is ordered by a court of competent jurisdiction or by a mental health board having jurisdiction in the proceedings or upon the report of the superintendent of the state hospital that the patient may be discharged with safety.

Approved March 13, 1969.

CHAPTER 269

S. B. No. 57

(Lips, Sorlie)

(Legislative Audit and Fiscal Review Committee)

**PATIENT TO PAY COST OF
CARE AT STATE HOSPITAL****AN ACT**

To amend and reenact section 25-09-02 of the North Dakota Century Code, relating to charges to patients at the state hospital.

**Be It Enacted by the Legislative Assembly of the State of
North Dakota:**

Section 1. Amendment.) Section 25-09-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-02. Expenses Chargeable Against Patient or His Estate—Filing Claims—Duties of County Judge.) Except as provided in section 25-09-11, expenses for care and treatment of each patient at the state hospital shall be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health, and at the state school charges for care and treatment shall be the actual average per patient cost incurred by the state. The supervising department shall recover quarterly from the patient if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans administration, such expenses shall be a current claim against such patient and may be recovered monthly by the supervising department except that the amount of seven dollars and fifty cents shall be credited to the patient's personal account from any social security money received. Claims for expenses incurred by the state for care and treatment of a patient at the state hospital or state school may be filed against the estate of such patient after his death, at any time prior to final distribution thereof, by the supervising department in the same manner and with the same effect

as claims of general creditors are filed against estates of decedents. Every county judge shall forward to the supervising department a list of the names of all persons whose estates have been entered for probate or heirship proceedings in his respective county court together with the legatees, devisees, and heirs at law of such estates within thirty days after the filing of the original certificate of any probate or heirship proceedings. The supervising department shall provide all county judges with forms for the purpose of carrying out the provisions of this section.

Approved March 25, 1969.