

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2421

Introduced by

Senators Mathern, Dever, Wardner

Representatives Delmore, Svedjan

A BILL for an Act to amend and reenact subsections 7 and 8 of section 25-03.1-02, section 25-03.1-11, and subsection 1 of section 25-03.1-25 of the North Dakota Century Code, relating to emergency procedures for mental health commitments; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 7 and 8 of section 25-03.1-02 of the North Dakota Century Code are amended and reenacted as follows:

7. "Expert examiner" means a licensed physician, psychiatrist, psychologist trained in a clinical program, or licensed addiction counselor appointed by the court to examine the respondent and to provide an evaluation of whether the respondent is a person requiring treatment. ~~An evaluation of a respondent's physical condition may be made only by a licensed physician or psychiatrist, an evaluation of a respondent's mental status may be made only by a psychiatrist or psychologist trained in a clinical program, and an evaluation of whether the respondent is chemically dependent may be made only by a licensed physician, licensed addiction counselor, or licensed psychologist trained in a clinical program.~~

8. "Independent expert examiner" means a licensed physician, psychiatrist, psychologist trained in a clinical program, or licensed addiction counselor, chosen at the request of the respondent to provide an independent evaluation of whether the respondent is a person requiring treatment. ~~An evaluation of a respondent's physical condition may be made only by a licensed physician or psychiatrist; an evaluation of a respondent's mental status may be made only by a psychiatrist or psychologist; and an evaluation of whether the respondent is chemically dependent~~

~~may be made only by a licensed physician, licensed addiction counselor, or
licensed psychologist trained in a clinical program.~~

SECTION 2. AMENDMENT. Section 25-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-11. Involuntary treatment - Examination - Report.

1. The respondent must be examined within a reasonable time by an expert examiner as ordered by the court. If the respondent is taken into custody under the emergency treatment provisions of this chapter, the examination must be conducted within twenty-four hours, exclusive of holidays, of custody. Any expert examiner conducting an examination under this section may consult with or request participation in the examination by any qualified mental health professional and may include with the written examination report any findings or observations by that mental health professional. This examination report, and that of the independent examiner, if one has been requested, must be filed with the court.

The report must contain:

- a. Evaluations of the respondent's physical condition and mental status.
- b. A conclusion as to whether the respondent is a person requiring treatment, with a clear explanation of how that conclusion was derived from the evaluation.
- c. If the report concludes that the respondent is a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
- d. The signature of the examiner who prepared the report.

2. For purposes of any examination conducted pursuant to this section:

- a. An evaluation of a respondent's physical condition may be made only by a licensed physician or psychiatrist.
- b. An evaluation of a respondent's mental status may be made only by a psychiatrist or psychologist trained in a clinical program. If neither a psychiatrist nor psychologist trained in a clinical program is available, the evaluation of a respondent's mental status may be conducted by a licensed physician.

c. An evaluation of whether the respondent is chemically dependent may be made only by a licensed physician, licensed addiction counselor, or licensed psychologist trained in a clinical program.

3. If the expert examiner concludes that the respondent is not a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the expert examiner concludes that the respondent is a person requiring treatment, or makes no conclusion thereon, the court shall set a date for hearing and shall give notice of hearing to the persons designated in section 25-03.1-12. If the respondent is in custody and is alleged to be suffering from mental illness or a combination of mental illness and chemical dependency, the preliminary hearing date must be within four days, exclusive of weekends and holidays, of the date respondent was taken into custody through emergency commitment under section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If a preliminary hearing is not required, the treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served.

SECTION 3. 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, 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, psychiatrist, psychologist, or mental health professional 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~~ seventy-two hours:

a. Before the twenty-four-hour requirement of section 25-03.1-11 applies;

b. Without conducting an immediate examination required under section 25-03.1-26; and

~~b-~~ c. Without following notice and hearing requirements for a transfer to another treatment facility required under subsection 3 of section 25-03.1-34.

SECTION 4. LEGISLATIVE COUNCIL STUDY - INVOLUNTARY MENTAL HEALTH

COMMITMENT PROCEDURES. During the 2009-10 interim, the legislative council shall study the involuntary mental health commitment procedures under North Dakota Century Code chapter 25-03.1. The study must include an assessment of the availability of psychiatric services in the state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.