

Introduced by

Senators Mathern, Dever, Wardner

Representatives Delmore, Svedjan

1 A BILL for an Act to amend and reenact subsections 7 and 8 of section 25-03.1-02 and section  
2 25-03.1-11 of the North Dakota Century Code, relating to emergency procedures for mental  
3 health commitments; and to provide for a legislative council study.

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

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

- 7 7. "Expert examiner" means a licensed physician, psychiatrist, psychologist trained in  
8 a clinical program, or licensed addiction counselor appointed by the court to  
9 examine the respondent and to provide an evaluation of whether the respondent is  
10 a person requiring treatment. ~~An evaluation of a respondent's physical condition~~  
11 ~~may be made only by a licensed physician or psychiatrist, an evaluation of a~~  
12 ~~respondent's mental status may be made only by a psychiatrist or psychologist~~  
13 ~~trained in a clinical program, and an evaluation of whether the respondent is~~  
14 ~~chemically dependent may be made only by a licensed physician, licensed~~  
15 ~~addiction counselor, or licensed psychologist trained in a clinical program.~~
- 16 8. "Independent expert examiner" means a licensed physician, psychiatrist,  
17 psychologist trained in a clinical program, or licensed addiction counselor, chosen  
18 at the request of the respondent to provide an independent evaluation of whether  
19 the respondent is a person requiring treatment. ~~An evaluation of a respondent's~~  
20 ~~physical condition may be made only by a licensed physician or psychiatrist; an~~  
21 ~~evaluation of a respondent's mental status may be made only by a psychiatrist or~~  
22 ~~psychologist; and an evaluation of whether the respondent is chemically~~  
23 ~~dependent may be made only by a licensed physician, licensed addiction~~  
24 ~~counselor, or licensed psychologist trained in a clinical program.~~

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

3           **25-03.1-11. Involuntary treatment - Examination - Report.**

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

13           The report must contain:

- 14           a. Evaluations of the respondent's physical condition and mental status.  
15           b. A conclusion as to whether the respondent is a person requiring treatment,  
16 with a clear explanation of how that conclusion was derived from the  
17 evaluation.  
18           c. If the report concludes that the respondent is a person requiring treatment, a  
19 list of available forms of care and treatment that may serve as alternatives to  
20 involuntary hospitalization.  
21           d. The signature of the examiner who prepared the report.
- 22           2. For purposes of any examination conducted pursuant to this section:  
23           a. An evaluation of a respondent's physical condition may be made only by a  
24 licensed physician or psychiatrist.  
25           b. An evaluation of a respondent's mental status may be made only by a  
26 psychiatrist or psychologist trained in a clinical program.  
27           c. An evaluation of whether the respondent is chemically dependent may be  
28 made only by a licensed physician, licensed addiction counselor, or licensed  
29 psychologist trained in a clinical program.
- 30           3. If the expert examiner concludes that the respondent is not a person requiring  
31 treatment, the court may without taking any other additional action terminate the

1 proceedings and dismiss the petition. If the expert examiner concludes that the  
2 respondent is a person requiring treatment, or makes no conclusion thereon, the  
3 court shall set a date for hearing and shall give notice of hearing to the persons  
4 designated in section 25-03.1-12. If the respondent is in custody and is alleged to  
5 be suffering from mental illness or a combination of mental illness and chemical  
6 dependency, the preliminary hearing date must be within four days, exclusive of  
7 weekends and holidays, of the date respondent was taken into custody through  
8 emergency commitment under section 25-03.1-25 unless a delay or continuance is  
9 concurred in by the respondent or unless extended by the magistrate for good  
10 cause shown. If a preliminary hearing is not required, the treatment hearing must  
11 be held within four days, exclusive of weekends and holidays, of the date the court  
12 received the expert examiner's report, not to exceed fourteen days from the time  
13 the petition was served.

14 **SECTION 3. LEGISLATIVE COUNCIL STUDY - INVOLUNTARY MENTAL HEALTH**

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