

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1453

Introduced by

Representatives Skroch, Buffalo, Sanford, Vigesaa

Senators Heckaman, Hogan, Mathern, Poolman

1 A BILL for an Act to amend and reenact sections 25-03.1-02 and 25-03.1-07 of the North
2 Dakota Century Code, relating to civil commitment procedures; and to provide for a legislative
3 management study.

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

5 **SECTION 1. AMENDMENT.** Section 25-03.1-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **25-03.1-02. Definitions.**

8 In this chapter, unless the context requires otherwise:

- 9 1. "Advanced practice registered nurse" means an individual who is licensed as an
10 advanced practice registered nurse under chapter 43-12.1 within the role of certified
11 nurse practitioner or certified clinical nurse specialist, who has completed the
12 requirements for a minimum of a master's degree in psychiatric and mental health
13 nursing from an accredited program, and who is functioning within the scope of
14 practice in one of the population foci as approved by the state board of nursing. This
15 chapter does not expand the scope of practice of an advanced practice registered
16 nurse beyond the scope of practice established by the state board of nursing.
- 17 2. "Alternative treatment order" means an involuntary outpatient order for a treatment
18 program, other than hospitalization, which may include treatment with a prescribed
19 medication.
- 20 3. "Chemically dependent person" or "person who is chemically dependent" means an
21 individual with an illness or disorder characterized by a maladaptive pattern of usage
22 of alcohol or drugs, or a combination thereof, resulting in social, occupational,
23 psychological, or physical problems.

- 1 4. "Consent" means voluntary permission ~~that is~~ based upon full disclosure of facts
- 2 necessary to make a decision and which is given by an individual who has the ability
- 3 to understand those facts.
- 4 5. "Court" means, except when otherwise indicated, the district court serving the county
- 5 in which the respondent resides.
- 6 6. "Department" means the department of human services.
- 7 7. "Director" means the director of a treatment facility or the director's designee.
- 8 8. "Expert examiner" means a licensed physician, physician assistant, psychiatrist,
- 9 psychologist trained in a clinical program, advanced practice registered nurse, or
- 10 licensed addiction counselor appointed by the court to examine the respondent and to
- 11 provide an evaluation of whether the respondent is a person requiring treatment.
- 12 9. "Independent expert examiner" means a licensed physician, physician assistant,
- 13 psychiatrist, psychologist trained in a clinical program, advanced practice registered
- 14 nurse, or licensed addiction counselor, chosen at the request of the respondent to
- 15 provide an independent evaluation of whether the respondent is a person requiring
- 16 treatment.
- 17 10. "Magistrate" means the judge of the appropriate district or juvenile court or a judge
- 18 assigned by the presiding judge of the judicial district.
- 19 11. "Mental health professional" means:
- 20 a. A psychologist with at least a master's degree who has been either licensed or
- 21 approved for exemption by the North Dakota board of psychology examiners.
- 22 b. A social worker with a master's degree in social work from an accredited
- 23 program.
- 24 c. An advanced practice registered nurse.
- 25 d. A registered nurse with a minimum of two years of psychiatric clinical experience
- 26 under the supervision of an expert examiner.
- 27 e. A licensed addiction counselor.
- 28 f. A licensed professional counselor with a master's degree in counseling from an
- 29 accredited program who has either successfully completed the advanced training
- 30 beyond the master's degree as required by the national academy of mental

health counselors or a minimum of two years of clinical experience in a mental health agency or setting under the supervision of a psychiatrist or psychologist.

g. A physician assistant.

12. "Mentally ill person" or "person who is mentally ill" means an individual with an organic, mental, neurological, or emotional disorder that substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. The term does not include an individual with an intellectual disability of significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior, although an individual who is intellectually disabled may also be a person who is mentally ill. Chemical dependency does not per se constitute mental illness, although a person who is chemically dependent may also be a person who is mentally ill.

13. "Person requiring treatment" means a person who is mentally ill or a person who is chemically dependent, and there is a reasonable expectation that if the individual is not treated for the mental illness or chemical dependency there exists a serious risk of harm to that individual, others, or property.

14. "Physician assistant" means an individual licensed to practice as a physician assistant under chapter 43-17, who is authorized by the North Dakota board of medicine to practice in the field of psychiatry, holds a certification in psychiatry approved by the board, and is practicing under the supervision of a psychiatrist licensed to practice medicine in this state. This chapter does not expand the scope of practice of a physician assistant beyond the scope of practice authorized by the North Dakota board of medicine.

15. "Private treatment facility" means any facility established under chapter 10-19.1 or 10-33 and licensed under chapter 23-16 or 50-31.

16. "Psychiatrist" means a licensed physician who has completed a residency program in psychiatry.

17. "Public treatment facility" means any treatment facility not falling under the definition of a private treatment facility.

- 1 18. "Qualified service organization" means a person that provides services to a treatment
2 facility such as data processing, bill collecting, dosage preparation, laboratory
3 analysis, or legal, medical, accounting, or other professional services, and which
4 agrees that in dealing with patient records, ~~that person~~ is bound by the confidentiality
5 restrictions of this chapter, except as otherwise provided for by law.
- 6 19. "Respondent" means an individual subject to petition for involuntary treatment.
- 7 20. "Serious risk of harm" means within the next forty-five days there is a substantial
8 likelihood of one or more of the following:
- 9 a. Suicide, as manifested by suicidal threats, attempts, or significant depression
10 relevant to suicidal potential;
- 11 b. Killing or inflicting serious bodily harm on another individual ~~or inflicting significant~~
12 ~~property damage~~, as manifested by acts or threats; that may cause harm or
13 which place another individual in reasonable fear of sustaining such harm.
- 14 c. Inflicting significant property damage, as manifested by acts or threats.
- 15 d. Suffering from neglect that poses a threat of substantial harm to the individual's
16 well-being.
- 17 e. Substantial deterioration in physical health ~~or~~ substantial injury, disease, or
18 death, based upon recent poor self-control or judgment in providing one's shelter,
19 ~~nutrition~~nourishment, self protection, essential health care, or personal care; ~~or~~
- 20 ~~d-f.~~ Substantial deterioration in mental health which would predictably result in
21 ~~dangerousness~~danger to that individual, others, or property, based upon
22 evidence:
- 23 (1) Evidence of objective facts to establish the loss of cognitive or volitional
24 control over the individual's thoughts or actions; ~~or based upon acts~~
- 25 (2) Acts, threats, or omissions; patterns in the individual's treatment history; ~~the~~
26 individual's current condition; and other relevant factors, including the effect
27 of the individual's mental condition on the individual's ~~ability to~~
- 28 (a) Insight into the need for treatment;
- 29 (b) Ability or willingness to comply with treatment; and
- 30 (c) Ability to consent.

1 21. "Substantial likelihood" may take into account an individual's history and recent
2 behavior.

3 22. "Superintendent" means the state hospital superintendent or the superintendent's
4 designee.

5 ~~22-23.~~ "Third-party payer" means a person that pays, or agrees to pay, for diagnosis or
6 treatment furnished to a patient on the basis of a contractual relationship with the
7 patient or a member of the patient's family, or on the basis of the patient's eligibility for
8 federal, state, or local governmental benefits, and includes any person providing audit
9 or evaluation activities for the third-party payer.

10 ~~23-24.~~ "Treatment facility" or "facility" means any hospital, including the state hospital at
11 Jamestown, or any evaluation and treatment facility that provides directly, or by direct
12 arrangement with other public or private agencies, emergency evaluation and
13 treatment, outpatient care, and inpatient care to ~~individuals who are~~ a person who is
14 mentally ill or a person who is chemically dependent.

15 **SECTION 2. AMENDMENT.** Section 25-03.1-07 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **25-03.1-07. Involuntary admission standards.**

18 An individual may not be involuntarily admitted under this chapter to the state hospital or
19 another treatment facility ~~only if~~ unless it is determined ~~that~~ the individual is a person requiring
20 treatment.

21 **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - BEHAVIORAL HEALTH CIVIL**
22 **COMMITMENT AND EARLY INTERVENTION.** During the 2019-20 interim, the legislative
23 management shall consider studying the state's civil commitment laws and procedures to
24 determine whether:

- 25 1. The state's laws and procedures operate as intended;
- 26 2. There are adequate outpatient commitment options in this state; and
- 27 3. There are steps our civil justice system could take to be more effective in intervening
28 in the early stages of an individual's mental illness to treat the illness and avoid
29 contact with law enforcement.

- 1 The legislative management shall report its findings and recommendations, together with
- 2 any legislation necessary to implement the recommendations, to the sixty-seventh legislative
- 3 assembly.