

MENTALLY ILL AND DEFICIENT, TUBERCULAR, BLIND, AND DEAF

CHAPTER 213

S. B. No. 113
(Longmire, Stafne)

EMERGENCY HOSPITALIZATION OF MENTALLY ILL

AN ACT

To amend and reenact section 25-03-08 of the North Dakota Century Code, relating to emergency procedure for admission of mentally ill to a private hospital or to the state hospital.

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

§ 1. **Amendment.)** Section 25-03-08 of 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 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 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.

Approved February 22, 1967.

CHAPTER 214

H. B. No. 534

(Aamoth, Haugland, Wagner, Wilkie, Williamson)
(From LRC Study)CARE, CUSTODY, AND TREATMENT OF MENTALLY
DEFICIENT

AN ACT

To create and enact sections 25-04-05.1 and 25-04-13 of the North Dakota Century Code, providing for the transfer, visiting, release, placement, and guardianship of mentally deficient persons, and to amend and reenact subsection 3 of section 12-02-01, section 14-03-07, subsection 3 of section 14-03-17, section 15-34-02, subsections 4, 5, and 6 of section 15-34-03, section 15-34-07, subdivision b of subsection 1 of section 15-39-01, subdivision i of subsection 2 of section 15-39-01, sections 15-47-13, 15-47-26, subsections 2, 3, and 5 of section 25-01-01, sections 25-04-01, 25-04-02, 25-04-04, 25-04-05, 25-04-06, 25-04-07, 25-04-08, 25-04-08.1, 25-04-11, subsection 4 of section 27-16-08, sections 29-20-01, 29-20-02, subsection 4 of section 54-01-19, and subsection 14 of section 54-21-13 of the North Dakota Century Code, relating to terminology of laws pertaining to the mentally deficient, admission of mentally deficient persons to a state institution, cost agreements, custody of minors who are mentally deficient, mentally deficient defendants, discharge of mentally deficient persons, nonresident mentally deficient persons, and examination of defendants appearing to be mentally deficient.

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

§ 1. Amendment.) Subsection 3 of section 12-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Mental deficient, incapable of knowing the wrongfulness of the act charged against them;

§ 2. Amendment.) Section 14-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-07. Marriages Prohibited.) Marriage by a woman under the age of forty-five years or by a man of any age, unless he marries a woman over the age of forty-five years, is prohibited if such a man or woman is a chronic alcoholic, an habitual criminal, a mentally deficient person, an insane person, a person who has been afflicted with hereditary insanity, or with any contagious venereal disease.

§ 3. Amendment.) Subsection 3 of section 14-03-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. An affidavit of a duly licensed physician other than the person seeking the license, showing that neither of the contracting parties is mentally deficient, an insane person, a common drunkard, or a person afflicted with any contagious venereal disease. For making the examination of either of the contracting parties and the affidavit, the physician may charge a fee of not more than two dollars; and

§ 4. **Amendment.)** Section 15-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-02. Compulsory Attendance—Deaf, Mute, Blind, or Mentally Deficient Persons.) Every parent, guardian, or other person who has control over any deaf, mute, blind, or mentally deficient child of an age of seven years to twenty years, both inclusive, shall send the child, if deaf or mute, to the school for the deaf at Devils Lake or other adequate institution for the entire school year, unless excused by the superintendent of that institution; and if blind, to the school for the blind at Grand Forks or other adequate institution for the entire school year, unless excused by the superintendent of said institution; and if mentally deficient, to the state school at Grafton or other adequate institution. Adequate institution shall mean any school, public or private, specializing in the training of handicapped children as stated.

§ 5. **Amendment.)** Subsections 4, 5, and 6 of section 15-34-03 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. That the child is in such physical or mental condition as to render attendance or participation in the regular or special education program inexpedient or impracticable. Such condition shall be shown by a declaration of a licensed physician if required by the board;
5. That no school is taught for the required length of time within two miles of the residence of the child by the nearest route, if the child lives in a school district which does not pay transportation in accordance with the schedule contained in this chapter, or the equivalent thereof in lodging or in tuition at some other school if acceptable to the child's parents or guardians, nor furnish vehicular transportation by public conveyance for the child. The exception contained in this subsection shall not apply in the case of a deaf, blind, or mentally deficient child;
6. That no school is taught for the required length of time within six miles of the residence of the child by the

nearest route, if the child lives in a school district which does not furnish vehicular transportation by public conveyance for children living more than six miles from the nearest school. The exception contained in this subsection shall not apply in the case of a deaf, blind, or mentally deficient child.

§ 6. Amendment.) Section 15-34-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-07. Preparation for Religious Duties—Absence from Public Schools—Deaf, Blind, Mentally Deficient May Not Be Paid Transportation.) Parents, guardians, or other persons having control of a child of compulsory school age may have such child excused from school attendance for the purpose of sending him to any parochial school to prepare such child for religious duties, for a total period of not exceeding six months in the aggregate, and such period may extend over one or more years. No transportation shall be furnished and no payments shall be made under the provisions of this chapter for any child who is attending a parochial school under the provisions of this section nor for any deaf, blind, or mentally deficient child who is not attending the public schools of the district lawfully.

§ 7. Amendment.) Subdivision b of subsection 1 of section 15-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. All superintendents and assistant superintendents employed in any state institution or in the school system of any school district in this state except that in the case of the Grafton state school, the superintendent or assistant superintendent may, at his option, be defined as a teacher for the purposes of this chapter;

§ 8. Amendment.) Subdivision i of subsection 2 of section 15-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- i. The Grafton state school; and

§ 9. Amendment.) Section 15-47-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-13. School Census—Report.) The school board of each public school district shall cause an enumeration to be made between the first and thirtieth days of June of each odd-numbered year, of all persons under twenty-one years of age, as of such thirtieth day of June, having their legal residence in the district. The census also shall include the following information:

1. The names and ages of such persons and the names of parents or guardians having the care and custody of each;
2. The names and ages of all deaf, blind, and mentally deficient persons between the ages of five years and twenty-five years residing in the district, including all such persons who are too deaf or mentally deficient to acquire an education in the common schools;
3. The names and ages of all crippled persons of any age residing in the district; and
4. The names and post office addresses of the parents or guardians of all of the persons mentioned in subsections 2 and 3 of this section.

The enumeration shall be made upon and in accordance with forms furnished by the county superintendent of schools, and shall be approved by the school board and returned to the county superintendent prior to the fifteenth day of July in the year in which it is made, and immediately upon receipt of such report the county superintendent of schools shall furnish a copy of the enumeration of deaf persons to the superintendent of the school for the deaf, a copy of the enumeration of blind persons to the superintendent of the school for the blind, and a copy of the enumeration of mentally deficient persons to the superintendent of the Grafton state school.

§ 10. Amendment.) Section 15-47-26 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-26. Definitions.) The term "teacher" as used in sections 15-47-27 and 15-47-28, shall be construed to include all teachers, principals, and superintendents in all public school districts within this state, and all persons employed in teaching in any state institution. The term "state institution" as used in section 15-47-27 shall include the state university of North Dakota, state agricultural college, county agricultural and training schools, state normal schools, state teachers colleges, state school of forestry, state school of science, North Dakota school for the deaf, state school at Grafton, and state industrial school.

§ 11. Amendment.) Subsections 2, 3, and 5 of section 25-01-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Mentally deficient person" means any person, minor or adult other than a mentally ill person, who is so mentally defective as to be incapable of managing himself and his

affairs and to require supervision, control, and care for his own or the public welfare;

3. "Defective delinquent" shall mean an incompetent mentally deficient person over eighteen years of age who has been found, in accordance with the procedures established in chapter 25-04, to have demonstrated a pattern of aggravated antisocial behavior such as to present a probable peril to the life, person, or property of others, or who has given substantial evidence of continuing propensity for such behavior;
5. "State school" shall mean the Grafton state school and such portion of the state institution at San Haven that is designated for the care of the mentally deficient;

§ 12. **Amendment.)** Section 25-04-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-01. State School—Maintained—Name.) An institution for the mentally deficient shall be maintained at or near the city of Grafton in the county of Walsh. Such institution shall be known and designated as Grafton state school.

§ 13. **Amendment.)** Section 25-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-02. Purpose of State School.) The state school shall be maintained for the relief, instruction, care, and custody of the mentally deficient of this state. For this purpose the board may introduce and establish such trades and manual industries as in its judgment will best prepare the residents for future self-support.

§ 14. **Amendment.)** Section 25-04-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-04. Who May Receive Benefits of State School.) Subject to the provisions of chapter 25-09 and to such rules and regulations as may be made by the board, the benefits of the state school may be received by persons who are residents of this state and who are:

1. Mentally deficient and, in the opinion of the superintendent of the state school, are of suitable age and capacity to receive instruction in such school and whose deficiencies prevent them from receiving proper training and instruction in the public schools; or
2. Mentally deficient, and who cannot be properly cared for in their homes or other available facilities.

§ 15. **Amendment.)** Section 25-04-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-05. Qualifications for Admission to State Facility—Temporary Admission—Payment Agreement.) 1. The superintendent may admit a mentally deficient person who is a resident of this state to the state school or other state facility under his jurisdiction or the jurisdiction of the board of administration when all of the following conditions have been met:

- a. Application for admission has been made on behalf of the mentally deficient person by his parent or guardian or the person or agency having legal custody of him, or by the mentally deficient person himself, in accordance with procedures established by the board of administration;
- b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the board of administration may require, indicates to his satisfaction that the person is eligible for admission to the state school or other state facility; and
- c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the board of administration.

2. The superintendent may admit to the state school or any other state facility under his jurisdiction or the jurisdiction of the board of administration, temporarily for the purposes of observation, without commitment, under such rules and regulations as the board of administration may prescribe, any person who is suspected of being mentally deficient, to ascertain whether or not such person is actually mentally deficient and a proper case for care, treatment, and training in the state facility. If in the opinion of the superintendent the person temporarily admitted to the state school is a proper subject for institutional care, treatment, and training at such school or facility, such person may remain as a voluntary resident at such school at the discretion of the superintendent if all other conditions for admission required by this section are met.

3. Prior to admitting any person as a voluntary resident under the provisions of this section, the superintendent shall require that such person, his parents, legal guardian, or other guarantor agrees to pay all expenses incurred by such care and treatment at the Grafton state school or other state facility in

the manner and amount provided by law, and may require a guarantee for such payment. However, upon receiving a certificate from the county judge that the persons legally responsible for the support of such person are unable to pay the cost of care and treatment as provided in chapter 25-09, the superintendent shall admit, in the same manner as other voluntary residents, such person as a voluntary resident.

§ 16.) Section 25-04-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-04-05.1. Transfer of Residents — Visiting Privileges — Release and Placement of Patients.) 1. The superintendent shall have the right of temporary transfer of any resident of the state school at Grafton to an appropriate hospital or other specialized facility when in his opinion the immediate health and safety of the resident requires such transfer. The superintendent shall also have the right and responsibility of indefinite transfer of a resident from one state facility for the mentally deficient to another when the best interest of the resident will be served thereby, or when such transfer is required in conformity with the policies of the board of administration; provided, however, that no such transfer shall be effected until after all reasonable efforts have been made to consult with the resident's parent or guardian of the person.

2. Subject to reasonable rules for the orderly operation of the state school or other state facility for the mentally deficient, any parent or guardian of the person of a resident shall have the right of visiting and communicating with his child or ward and authorizing visits and communications with others.

3. The superintendent may authorize the temporary release of any resident to the custody of his parent or guardian of the person, or to another person designated by the parent or such guardian. In the absence of such authorization any parent or guardian of the person of any resident may formally request his temporary release in writing, which release shall be granted at the earliest reasonable opportunity, but not more than thirty days after receipt of a written application. If such release is, or would be, effected contrary to the advice of the superintendent based on a recent comprehensive evaluation of the individual, the superintendent shall so advise the parent or such guardian in writing. If in the opinion of the superintendent the health, safety, welfare, or morals of the resident or society are seriously endangered by release, he shall so advise the board of administration, which may thereupon at their discretion apply to the proper county court to have such adult resident adjudged a defective delinquent in the manner

provided in section 25-04-07, or in the case of a minor, the board of administration may apply to the proper juvenile court to have such minor declared a ward of the court.

4. The superintendent shall have the authority to arrange for the suitable placement of a resident outside the school or other state facility and to release him on placement, provided placement has been preceded by a comprehensive evaluation. No such placement shall be effected until all reasonable efforts have been made to consult with the resident's parent or guardian of the person.

§ 17. Amendment.) Section 25-04-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-06. Juvenile Court Commitment of Dependent, Neglected, or Delinquent Mentally Deficient — Commitment for Observation—Appeal.) Whenever it shall appear to the satisfaction of the court in any proceeding instituted in juvenile court that the child involved in the proceeding is:

1. Dependent and mentally deficient, or
2. Neglected and mentally deficient, or
3. Delinquent and mentally deficient,

the court may make an order committing such child to the state school. If the court shall be in doubt as to whether the child is mentally deficient, it may make an order committing the child to the state school for observation only by the authorities of such institution. If it is ascertained as a result of such observation that the child is mentally deficient, a report to such effect shall be made by the authorities of the school to the court. The court thereupon shall make an order fixing a time for a hearing upon the report showing the child to be mentally deficient. Notice of such hearing shall be given to the parents, custodian, or guardian of such child in the manner prescribed by law for the giving of notice in other proceedings in juvenile court. Upon such hearing, the court shall make such order as it may deem proper. Any parent, custodian, guardian, or other person charged with the control of such child may take an appeal from the order made by the court in the manner now prescribed by law for the taking of appeals from decisions of the juvenile court. The procedure provided in this section shall not be exclusive but shall be in addition to other procedures provided in this chapter for the commitment of mentally deficient children to the state school.

§ 18. Amendment.) Section 25-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-07. Mentally Deficient Defendants.) 1. When in any cause, other than a proceeding before the juvenile court, it appears that a defendant may be mentally deficient to such an extent that he is unable to confer effectively with counsel or to participate adequately in his own defense, this issue shall be adjudicated in accordance with the procedures provided for in chapter 29-20. When any person has been adjudicated unfit to stand trial by reason of mental deficiency, the court shall initiate a process for the determination of mental incompetency, or for a joint determination of incompetency and defective delinquency as provided hereinafter. If incompetency is established, the court shall appoint an appropriate guardian of the person.

2. If the defendant's condition and behavior is such that it appears to the court that he may be not only incompetent, but may also constitute a continuing peril to the life, person, or property of others, the court may order his admission and temporary detention for a period not to exceed thirty days in a state institution or facility suitable to receive such persons. Prior to the expiration of the order a report shall be transmitted to the court in accordance with this directive, which report shall include recommendations concerning the nature and extent of the defendant's mental deficiency, the extent to which the individual is able to manage himself and his affairs with ordinary prudence, and the extent and character of any propensity toward aggravated antisocial behavior such as might substantiate a finding of defective delinquency.

3. The court may thereupon conduct a hearing on the joint question of incompetency and defective delinquency, with due notice to all interested parties in the manner provided for in chapter 30-10. The court may hear the matter or may order a jury trial. A jury trial shall be had if demanded by the defendant or someone on his behalf.

4. If the defendant is found competent, he shall be discharged. If he is found to be incompetent, but not a defective delinquent, the court shall appoint an appropriate guardian of the person. If he is found to be a defective delinquent, the court shall appoint an appropriate guardian and may, in addition, issue an order placing him in the state school at Grafton or other appropriate state facility.

5. Any parent, custodian, guardian, or other person charged with the control of such defendant may take an appeal from the order made by the court in the manner provided by law. The procedure provided in this section shall not be exclusive but shall be in addition to any other procedure for the commitment of mentally deficient persons to the state school or other state facility.

§ 19. Amendment.) Section 25-04-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-08. Discharge of Resident from Institution.) A mentally deficient person who has been admitted as a resident shall be permanently discharged within thirty days under any one of the following conditions:

1. The superintendent, on the basis of a comprehensive evaluation, finds that the care, treatment, training, rehabilitation, and supervision offered by the state are no longer required;
2. The parent or guardian who voluntarily committed his child or ward as a resident and who retains legal custody makes a written request for discharge;
3. The mentally deficient person is admitted on indefinite transfer to a hospital, school, or other facility, or a protective service under the jurisdiction of another state, or another agency or department of this state, provided, however, that if such admission be by contractual arrangement made by the board of administration, the mentally deficient person shall be placed on nonresident release status, but not discharged; and
4. A court of competent jurisdiction orders the discharge of the mentally deficient person.

Any person who is to be discharged under subsections 2 or 4 of this section shall first receive a comprehensive evaluation unless such evaluation is not completed within thirty days of the request for discharge.

§ 20. Amendment.) Section 25-04-08.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-08.1. Notification Prior to Discharge.) Prior to discharge the superintendent shall consult with the parent or guardian of the person of the mentally deficient person, or with the court which ordered the commitment, and shall notify the director of the county welfare board of the county wherein it is proposed that such person will assume residence and shall also notify the director of the state welfare board.

§ 21. Amendment.) Section 25-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-11. Disposition of Mentally Deficient Person Who Is Not a Legal Resident.) If a person who has no legal residence in this state is subject to admission to the state school or

other appropriate state facility, by order of a court of competent jurisdiction, such person shall be sent, at the expense of the county, to the state school in the same manner as a resident of this state who is found to be mentally deficient, and the superintendent of the state school shall then arrange for the transportation of such person to the place where he belongs. The board of administration shall ascertain the place where such person belongs when the same conveniently can be done.

§ 22.) Section 25-04-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-04-13. Guardianship of Person and Estate—Superintendent and Board of Administration to Act as Guardians in Lieu of Court Appointment or Assumption by Parent.) The superintendent of the Grafton state school shall be the guardian of the person of any resident of the Grafton state school who does not otherwise have a guardian of his person duly appointed by a court of competent jurisdiction, or whose parents do not elect to retain their natural guardianship of the person as herein provided. Such guardianship by the superintendent shall continue until the resident otherwise obtains a court-appointed guardian of the person, or is permanently discharged from the Grafton state school pursuant to section 19 of this Act.

The board of administration or its duly designated agent shall be the guardian of the estate of a resident of the Grafton state school who does not otherwise have a court-appointed guardian of his estate, or whose parents do not elect to retain their natural guardianship of the estate as herein provided. The guardianship of the estate of a resident of the Grafton state school shall be administered by the board of administration or its duly designated agent until the resident otherwise obtains a court-appointed guardian of his estate, or is permanently discharged from the Grafton state school pursuant to section 19 of this Act. The board of administration, its agent, or any other guardian of the estate of a resident of the Grafton state school, shall make an annual accounting to the county court of the county of residence of a resident of the Grafton state school, provided, however, that the board of administration shall not be required to make such accounting if the income or expenditures of the estate do not exceed one hundred dollars during the past calendar year or if the total value of the estate does not exceed three hundred dollars. All guardians of the estate of residents of the state school, other than the board of administration, shall file a copy of their annual accounting with the board of administration.

Upon the effective date of this Act the superintendent of the Grafton state school and the board of administration shall notify by certified mail the parents or responsible relatives of all residents of the Grafton state school under the age of twenty-one that the superintendent shall assume the guardianship of the persons of such residents and that the board of administration shall assume the guardianship of the estates of such residents, unless the parents shall elect in writing to retain their natural guardianship until the age of twenty-one of either the person, estate, or both of such residents within ninety days of receipt of such notice. Notification by certified mail shall also be given to the parents or responsible relatives of all other residents of the Grafton state school that the superintendent will assume guardianship of the persons, and the board of administration shall assume guardianship of the estates of such residents within ninety days of receipt of such notice unless such parents or responsible relatives shall be appointed by a court of competent jurisdiction as guardians of either the persons, estates, or both of such residents. The superintendent and the board of administration shall include in such notices a full explanation of the legal effects of the assumption of such guardianship. After the effective date of this Act the parents or responsible relatives of any person admitted to the Grafton state school shall be notified in person or by certified mail that the superintendent shall assume the guardianship of the person and the board of administration shall assume the guardianship of the estate of the new resident within ninety days of admission, unless the parent or responsible relatives shall elect in writing to retain their natural guardianship of either the person, estate, or both of the new resident, or shall elect to have a court of competent jurisdiction appoint such parents or responsible relatives as guardians of the person, estate, or both. A full explanation of the legal effects of such guardianships shall be given at the same time as the notification.

Each county court shall maintain a file for the filing of the guardianship accounting of the estates of residents of the Grafton state school, and shall audit such accounts in the same manner as other accounts are audited. The state's attorney of each county shall advise the county court as to the proper methods and procedures of administering such guardianship accounts, upon request of the judge of the county court.

Nothing in this section shall preclude the appointment of a parent of a resident as a guardian of the person or estate. In the event any legal guardian shall fail or neglect to properly perform his duties as a guardian, the superintendent or board of administration may apply to a court of competent jurisdiction to have such guardianship terminated.

The assumption of the guardianship of the person by the superintendent, or of the estate by the board of administration, of a resident of the Grafton state school shall in no way affect any parental financial responsibility of the parent for such resident as may otherwise be provided by law. The superintendent in his capacity as guardian of the person of a resident of the Grafton state school shall not consent to any sterilization operation of such resident except as may otherwise be provided for by law.

§ 23. Amendment.) Subsection 4 of section 27-16-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Concurrent jurisdiction for the care or commitment to the state school at Grafton or other public facility for the mentally deficient or mentally disordered child as provided by section 25-04-06.

§ 24. Amendment.) Section 29-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-20-01. Examination of Defendant's Mental Condition to Determine Whether He Shall Be Tried.) If, before or during the trial, the court has reasonable ground to believe that the defendant against whom an indictment has been found or an information filed is insane or mentally defective to the extent that he is unable to understand the proceedings against him or to assist in his defense, the court immediately shall fix a time for a hearing to determine the defendant's mental condition. The court may appoint two disinterested qualified experts to examine the defendant with regard to his present mental condition and to testify at the hearing, or it may commit the defendant to the state hospital at Jamestown or the state school at Grafton for observation and examination regarding his present mental condition. The proper officer of such institution shall present to the court which conducted the hearing a report regarding the defendant's present mental condition. He also may be summoned to testify at the hearing. Other evidence regarding the defendant's mental condition may be introduced at the hearing by either party.

§ 25. Amendment.) Section 29-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-20-02. Commitment to State Hospital or Grafton State School—Rehearing—Trial or Commitment.) If the court, after the hearing, decides that the defendant is able to understand the proceedings and to assist in his defense, it shall proceed

with the trial, but if it decides that the defendant, because of insanity or mental deficiency, is not able to understand the proceedings or to assist in his defense, it shall take proper steps to have the defendant committed to the state hospital at Jamestown or the state school at Grafton, whichever institution seems most appropriate. If, thereafter the proper officer of such institution is of the opinion that the defendant is able to understand the proceedings and to assist in his defense, he shall report this fact to the court which committed the defendant. If the officer so reports, the court shall fix a time for a hearing to determine whether the defendant is able to understand the proceedings and to assist in his defense. This hearing shall be conducted in all respects like the original hearing to determine the defendant's mental condition. If, after this hearing, the court decides that the defendant is able to understand the proceedings against him and to assist in his defense, it shall proceed with the trial. If, however, it decides that the defendant still is not able to understand the proceedings against him or to assist in his defense, it shall recommit him to the state hospital at Jamestown or state school at Grafton, whichever the case may be.

§ 26. Amendment.) Subsection 4 of section 54-01-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. To establish custody and restraint for the persons of unsound mind dangerous to themselves or society;

§ 27. Amendment.) Subsection 14 of section 54-21-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. To receive and provide for such mentally deficient persons as may be committed to its guardianship by courts of competent jurisdiction;

Approved February 23, 1967.

CHAPTER 215

H. B. No. 538
(Aamoth, Wagner, Wilkie)
(From LRC Study)

RECOMMENDATION FOR STERILIZATION

AN ACT

Authorizing the superintendent of the Grafton state school to recommend a sterilization operation for a resident of such school upon receiving the approval of a board of professional personnel and the written consent of a relative or guardian, specifying the manner of obtaining and granting consent, prohibiting the superintendent from acting as guardian, providing for compensation of physicians and surgeons and limiting liability, and providing that parents may initiate such procedure.

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

§ 1. Superintendent May Recommend Sterilization — Persons Who May Give Consent to Operation.) The superintendent of the Grafton state school, upon obtaining the unanimous approval of a board composed of three competent physicians and surgeons, one professional psychologist, and one professional social worker appointed by the board of administration, may recommend in writing to the:

1. Court-appointed guardian, or if there is no court-appointed guardian, to the
2. Parent, if the person subject to sterilization is a minor, or if not a minor or no guardian has been appointed for the person, to the
3. Spouse, if there be one,

of a resident of the Grafton state school, that such resident be sterilized. No recommendation for sterilization shall be made unless such operation would be for the protection of society or improving the physical and mental well-being of the resident.

At the same time as submitting the written recommendation for sterilization, the superintendent shall submit an explanation sheet to the guardian, parent, or spouse, explaining in simplified terms the nature and procedure of a sterilization operation, its purpose, and the effect such operation might have on the individual.

For the purpose of this section a professional psychologist shall be deemed to be a person holding a doctor's degree in psychology, and a professional social worker shall be deemed to be a person holding a master's degree in social work.

§ 2. Consent Required for Sterilization—Manner of Obtaining.) Within fourteen days after the notification of the recommendation for sterilization is received, the court-appointed guardian, parent, or spouse, whichever the case may be, shall express consent or non-consent to the sterilization operation on a form provided by the board of administration for such purpose. No sterilization operation shall be performed without the written consent of the court-appointed guardian, parent, or spouse, whichever the case may be. If written notice of non-consent is not received within fourteen days after notification of the recommendation for sterilization, the consent to proceed with the sterilization operation shall be deemed to have been denied. No further request for consent to sterilize shall be made for at least one year from the date of denial.

§ 3. Basis for Determining Approval by Physicians.) The five-member board's approval for the sterilization operation shall be based upon an examination of the innate traits, mental and physical condition, personal record, family traits and history, and adequate medical and psychiatric evaluation of the person who is subject to being sterilized. The examination of the person shall be made at the request of the superintendent of the Grafton state school.

§ 4. Appointment of Guardian Where No Relative Evident—Superintendent Not to Act.) The superintendent of the Grafton state school shall not request approval for sterilization from the five-member board for any person who does not have any parent or spouse, unless a guardian is first appointed by a court of competent jurisdiction in the manner provided by law for the appointment of guardians. The superintendent shall not be appointed as the guardian for any person for whom a sterilization operation is requested, nor shall the superintendent, if previously appointed the guardian of a person by statute or by a court of competent jurisdiction, exercise any guardianship powers for the purpose of consenting to a sterilization operation.

§ 5. Members Composing Approval Board—Compensation.) The members composing the approval board shall be entitled to a per diem compensation of twenty-five dollars for each day in which actually engaged in the performance of their duties and to the same mileage and expenses allowed to other employees of the state. Such per diem and expenses shall be paid from moneys appropriated to the Grafton state school.

§ 6. Performance of Operation.) Upon receipt of the written consent from the guardian, parent, or spouse, to proceed with the sterilization operation, the superintendent of the Grafton state school shall cause to be performed such surgical

operation for sterilization of the person named in the written consent as may be specified therein. All such operations shall be performed within a reasonable time after receiving consent and with due regard for the physical condition of the resident and in accordance with accepted and recognized standards of medical practice.

§ 7. No Liability Except for Negligence.) The superintendent of the Grafton state school, the members of the approval board, the relative or guardian granting the consent for the sterilization operation, the physician and surgeon performing the operation, the members of the board of administration, or any other person who in good faith aids in carrying out the provisions of this Act, shall not be held criminally liable therefor, nor civilly liable for any loss or damage on account thereof, except in the case of negligence in the performance of such operation.

§ 8. Parents May Initiate Sterilization Procedure.) Any parent desiring to have his or her minor child who has been committed or admitted to the Grafton state school sterilized, shall notify the superintendent in writing. The superintendent upon receiving such notification shall inform the parent of the next scheduled meeting of the approval board provided for in section 1 of this Act, or if no meeting is scheduled, shall notify the parent as soon as a meeting is scheduled. At such meeting of the approval board, the parent seeking a sterilization operation for his child, shall appear and present evidence as to why such minor child shall be sterilized and shall submit a written form consenting to such sterilization. The board, upon completing a review of all evidence presented by the parent and considering all the requirements as provided in sections 1 and 3 of this Act, may approve or reject the application. If the application is approved, the sterilization operation shall be performed in the manner provided for in this Act.

Approved February 24, 1967.

CHAPTER 216

H. B. No. 537

(Aamoth, Haugland, Wagner, Wilkie)
(From LRC Study)TREATMENT COSTS FOR RESIDENTS OF GRAFTON
STATE SCHOOL

AN ACT

To amend and reenact sections 25-09-04, 25-09-05, 25-09-06, 25-09-07, 25-09-08, and 25-09-11 of the North Dakota Century Code, relating to charges for the care and treatment of residents of the Grafton state school, methods of determining actual liability, and disposition of revenue, and to repeal section 25-09-06.1, relating to limitations on certain claims.

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

§ 1. **Amendment.)** Section 25-09-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-04. Responsible Relatives Shall Pay for Care and Treatment—Definition.) In the event of the patients' inability to pay for the costs of care and treatment, responsible relatives of such patients at the state hospital or state school shall pay to the supervising department quarterly, the actual cost of care and treatment incurred by the state at each institution, or such lesser amount as may be determined in accordance with sections 25-09-05, 25-09-06, or 25-09-11. For purposes of this chapter and title 25 of this Code "responsible relatives" shall mean the patient's spouse, father, mother or children.

§ 2. **Amendment.)** Section 25-09-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-05. Inability to Pay All or Part of Expense.) The patient, his responsible relatives, or the executor, administrator, or guardian may make application to the supervising department to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state hospital or state school. Such application shall be accompanied by proof of the patient's or his estate's or responsible relatives' of their estates' inability to pay. Upon receipt of such application the supervising department shall direct the county welfare board of the county from which the patient was admitted in the case of a patient at the state hospital or the state school, to determine whether the patient or his

responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county welfare board. The determination made by the supervising department may be appealed to the district court of Burleigh County or the district court of the county of residence of the patient or his responsible relatives. Any patient or responsible relative, who seeks relief for the payment of cost of care and treatment by filing an application for relief of payment, shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

§ 3. Amendment.) Section 25-09-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-06. Application for Review of Ability to Pay.) Any patient at the state hospital or state school or any responsible relative or their executors, administrators or guardians, may make application to the supervising department not more often than once each calendar year for a review of the determination made by the supervising department in regard to the ability of such persons or their estates to pay costs of care and treatment. Such application and review shall be treated in the same manner as an original application by such persons for a determination of their inability to pay costs of care and treatment. Upon such review, the supervising department may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition the supervising department on its own motion may review the ability of the patient, or his responsible relatives, or their estates, to pay for costs of care and treatment, which determination may be made retroactive.

§ 4. Amendment.) Section 25-09-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***25-09-07. State's Attorneys or Attorney General to Bring Action for Expenses—Contract for Collections.)** 1. Upon the request of the supervising department to the various state's attorneys or attorney general, in regard to expenses incurred

***Note:** Section 1 of chapter 217, 1967 S.L., also amended section 25-09-07.

by the state of North Dakota for the care and treatment of a patient at the state hospital or state school, the respective state's attorneys or attorney general shall bring an action against the patient or his estate, or his responsible relatives or their estates, for the payment of the amount due the state.

2. The supervising department of the state hospital is permitted to contract with North Dakota nonprofit hospital collection associations or collection agencies located in the state for the collection of amounts due the state for expenses incurred by the state of North Dakota for the care and treatment of patients at the state hospital where the amount due the state by a patient or his estate, or his responsible relatives or their estates is not in excess of three hundred fifty dollars at the time the account is turned over to the collection agency for collection.

§ 5. **Amendment.)** Section 25-09-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-08. Disposition of Funds Collected.) The amount collected from patients, their estates, or responsible relatives or their estates, by the supervising department under the provisions of this chapter shall be deposited with the state treasurer and credited to the operating fund of each institution.

§ 6. **Amendment.)** Section 25-09-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-11. Reductions in Claims Against Resident Patients of the Grafton State School and Their Responsible Relatives—Voluntary Payments—Termination of Billings.) Commencing with the effective date of this section, and at the beginning of each calendar year thereafter, the superintendent of public instruction shall certify to the supervising department the average annual per-pupil cost of education in the public schools of the state for the most recent school year for which statistics are available. The supervising department shall prorate such average annual per-pupil cost of education over the calendar year and shall deduct such cost from the expenses of care and treatment provided in and chargeable to each resident patient at the state school under section 25-09-02 or to resident responsible relatives of such patient under sections 25-09-04 and 25-09-06. The deduction shall continue for a period of fifteen years after the date of the first admission of each patient to the state school or until the patient reaches his twenty-first birthday, whichever shall first occur. During such period the responsible relatives, or their respective

estates shall not be liable for more than a sum equal to six hundred dollars. After the passage of the above-mentioned fifteen-year period, or after such patient reaches his twenty-first birthday, whichever shall first occur, claims against resident responsible relatives shall be terminated and no billings shall be made against said resident responsible relatives except for any previous liabilities incurred, provided, however, such relatives may voluntarily choose to pay the actual average per-patient costs of care and treatment of the patient or patients, or any portion thereof, for the patient or patients for whom they are responsible. If the resident responsible relative does not choose to pay the actual average per-patient costs of care and treatment after the fifteen-year period of residency at the school is passed, or the patient reaches his twenty-first birthday, whichever occurs first, the actual costs of care and treatment shall accrue against the estate of the responsible relatives from the date the patient reaches the fifteen-year period or his twenty-first birthday, whichever occurs first. No monthly or other billing to the patient, the responsible relative, or the guardian of the patient's person or estate shall be necessary to perfect and maintain the claims of the state against the patient or estate of the responsible relative.

Claims against the estates of resident responsible relatives for the care and treatment of patients at the state school shall not exceed an amount equal to that portion of the value of the estate which would pass to the patient under the intestacy laws of this state had the responsible relative died intestate during the life of the patient, but this limitation shall not bar additional or subsequent claims against any patient or any patient's estate regardless of the source of the property constituting such estate. Claims against the resident responsible relatives, or their estates, shall be retroactive to the time of admission of the patient to the state school, in accordance with the above provision.

Parents with more than one patient in the state school shall pay as full payment for their children in the state school as follows:

1. Second child admitted to the state school, fifty percent of the regular charge assessed against the first patient;
2. Third child admitted to the state school, twenty-five percent of the regular charge assessed the first patient;
3. Fourth and successive children admitted to the state school, no charge.

Such claims may be further reduced as provided by sections 25-09-05 and 25-09-06.

No statute of limitations or similar statute or the doctrine of laches shall bar the right of recovery for the expense incurred by the state for care and treatment at the state school from the patient or his estate or for the liability incurred by responsible relatives or their estates, but this section shall not apply to claims that may be otherwise barred by law prior to July 1, 1963. No claim shall be made to recover from the estate of a former resident of the state school who has left the state school and married, and leaves a spouse or issue dependent upon such estate.

Nonresident patients at the Grafton state school and non-resident responsible relatives of such patients shall be liable for the full costs of care and treatment at the state school according to the provisions of sections 25-09-02 through 25-09-06.

§ 7. Repeal.) Section 25-09-06.1 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 15, 1967.

CHAPTER 217

S. B. No. 74

(Kautzmann, Longmire, Stafne)

COLLECTION OF EXPENSES FOR CARE AT GRAFTON STATE SCHOOL AND STATE HOSPITAL

AN ACT

To amend and reenact section 25-09-07 of the 1965 Supplement to the North Dakota Century Code, relating to the collection of expenses of care and treatment of patients at the state hospital and state school.

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

§ 1. Amendment.) Section 25-09-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***25-09-07. State's Attorneys to Bring Action for Expenses—Contract for Collections.)** 1. Upon the request of the supervising department to the various state's attorneys, in regard to expenses incurred by the state of North Dakota for the care and treatment of a patient at the state hospital or state school the

***Note:** Section 4 of chapter 216, 1967 S.L., also amended section 25-09-07.

respective state's attorneys shall bring an action against the patient or his estate, or his responsible relatives or their estates, for the payment of the amount due the state.

2. The supervising department of the state hospital is permitted to contract with North Dakota non-profit hospital collection associations or collection agencies located in the state for the collection of amounts due the state for expenses incurred by the state of North Dakota for the care and treatment of patients at the state hospital where the amount due the state by a patient or his estate, or his responsible relatives or their estates is not in excess of three hundred fifty dollars at the time the account is turned over to the collection agency for collection.

Approved February 27, 1967.

CHAPTER 218

S. B. No. 51

(Longmire, Ruemmele)

(From LRC Study)

BILLING OF PATIENTS FOR CARE IN STATE INSTITUTIONS AND DISPOSITION OF NONRESIDENTS AT GRAFTON

AN ACT

To amend and reenact sections 25-09-09 and 25-09-10 of the North Dakota Century Code, relating to the manner of billing patients of state institutions and their responsible relatives, and the disposition of nonresident patients at the Grafton state school.

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

§ 1. Amendment.) Section 25-09-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-09. Statute of Limitations Not Bar to Recovery.) No statute of limitations or similar statute or the doctrine of laches shall bar the right of recovery for the expense incurred by the state for care and treatment at the state hospital or state school from the patient or his estate, but this section shall not apply to claims that may be otherwise barred by law prior to July 1, 1961. It shall not be necessary to bill currently any person for those accounts determined to be inactive, or currently uncollectible, or which it has been determined as provided by law that there is no present ability to pay. Current billings shall be made for amounts chargeable by law or for which it has been

determined the patient or responsible relative presently has an ability to pay, but such manner of billing shall in no way affect the total amount due.

§ 2. **Amendment.**) Section 25-09-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-10. Disposition of Nonresidents—Exceptions—Reciprocal Agreements.) 1. If a person who has no legal residence in this state or whose residence is unknown is found to be fit subject for care and treatment in the state hospital or tuberculosis sanatorium, such person shall be sent to such institution in the same manner, and accompanied by the same documents as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of such person, and if found to be in another state or country the supervising department may arrange for transportation of such person to the place where he belongs. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally ill or tubercular persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with any laws of this state.

2. If a person who has no legal residence in this state or whose residence is unknown is found to be fit subject for care and treatment in the state school, such person shall be sent to such institution in the same manner, and accompanied by the same documents, as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of such person or his responsible relatives, and if found to be in another state or country the supervising department shall arrange for transportation of such person to the place where he belongs unless such person can be accommodated at the Grafton state school without depriving a North Dakota resident of care and treatment at the Grafton state school and costs of care are paid for by the nonresident person or his responsible relatives within a reasonable time, or unless a reciprocal agreement has been entered into with another state regarding the care and commitment of such a nonresident. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally deficient persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with any laws of this state.

Approved February 25, 1967.

CHAPTER 219

H. B. No. 691

(Williamson, McDonald(21), Eagles)

ESTABLISHMENT OF MENTAL HEALTH AND
RETARDATION SERVICE UNITS

AN ACT

To amend and reenact section 25-12-01 of the North Dakota Century Code, relating to establishment of mental health and retardation service units.

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

§ 1. Amendment.) Section 25-12-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-12-01. Establishment of Mental Health and Retardation Service Units.) Upon petition of eight percent of the voters of any city as determined by the number voting for the office of governor in such city at the most recent general election at which a governor was elected, the governing body of any city having a population of five thousand or more according to the last federal census may, with the approval of the board of county commissioners of the county within which such city is located, establish and maintain a mental health and retardation service unit.

Upon petition of eight percent of the voters of any county as determined by the number voting for the office of governor in such county at the most recent general election at which a governor was elected, the board of county commissioners of any county containing a city having a population of five thousand or more according to the most recent federal census may establish and maintain a mental health and retardation service unit.

In addition to the other methods provided by law, a mental health and retardation service unit may be established upon the petition of eight percent of the voters of any county as determined by the number voting for the office of governor in such county at the most recent general election at which a governor was elected, the board of county commissioners of any county not containing a city having a population of five thousand or more according to the most recent federal census, may enter into agreements for the joint operation or for the participation in the operation or contracts with other

cities or counties who have established a mental health and retardation service unit pursuant to this section. Such counties may act in accordance with the provisions of section 54-40-08 in making such agreements.

Any county or city establishing a mental health and retardation service unit may in accordance with section 54-40-08 make agreements with the governing bodies of other political subdivisions for the joint operation or participation in the operation of such service unit or contracts as provided in this chapter.

Such service unit may be established by the county or city and operated by the political subdivisions involved, or in the discretion of their respective governing bodies such service unit may be operated by contract with a nonprofit corporation which shall agree to furnish such services in the field of mental health and retardation in accordance with such contract in a manner consistent with state law and rules of the division of mental health of the state health department.

These units will take into consideration and be coordinated with existing mental health and retardation services which are under other local, state, or private administrations, such as social service programs of county welfare boards, area child welfare and family services of the public welfare board of North Dakota, special education programs, specialized services of the division of vocational rehabilitation, and other facilities providing services in the broad field of mental health.

Approved February 27, 1967.

CHAPTER 220

S. B. No. 326
(Holand)

PARTICIPATION OF BLIND PERSONS IN SOCIAL AND
ECONOMIC ACTIVITIES

AN ACT

Relating to access and use of public accommodations, common carriers, and places in which the public is generally invited, by a totally or partially blind person accompanied by such person's guide dog; public employment of handicapped, and providing a penalty.

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

§ 1. Legislative Policy.) It is the policy of this state to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the social and economic life of the state and to engage in remunerative employment.

§ 2. Blind Person Accompanied by Guide Dog To Be Admitted to Public Places.) Every totally or partially blind person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in places of public accommodations, common carriers, and all places in which the public is generally invited, without being required to pay an extra charge for the guide dog; provided that he shall be liable for any damage done to the premises or facilities by such dog.

§ 3. Precautions of Driver of Motor Vehicle When Approaching Blind Persons.) The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide dog shall take all reasonable precautions to avoid injury to such blind pedestrian, and any driver who fails to take such reasonable precautions shall be liable in damages for any injury caused such pedestrian; provided that a totally or partially blind pedestrian not carrying such a cane or using a guide dog in any of the places, accommodations, or conveyances listed in section 2 of this Act, shall have all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind pedestrian to carry such a cane or use a guide dog in any such places, accommodations, or conveyances shall not itself be held to constitute nor be evidence of contributory negligence.

§ 4. Misdemeanor to Interfere or Deny Use of Facilities.) Any person, firm, or corporation, or the agent of any person,

firm, or corporation who denies or interferes with admittance to or enjoyment of the public facilities enumerated in section 2 of this Act or otherwise interferes with the rights of a totally or partially blind person shall be guilty of a misdemeanor.

§ 5. State Employment of Handicapped.) It is the policy of this state that the blind, the visually handicapped, and the otherwise physically disabled shall be employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless the particular disability prevents the performance of the work involved.

Approved March 14, 1967.

CHAPTER 221

S. B. No. 254
(Meschke, Rait)

INTERSTATE COMPACT ON MENTALLY DISORDERED OFFENDER

AN ACT

To adopt an interstate compact on the mentally disordered offender.
Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Enactment of Interstate Compact on Mentally Disordered Offenders.) The interstate compact on mentally disordered offenders, hereinafter called "the compact", is hereby enacted and entered into with all other jurisdictions legally joining therein. The provisions of said compact are as follows:

Interstate Compact on Mentally Disordered Offenders

ARTICLE I

Purpose and Policy

(a) The party states, desiring by common action to improve their programs for the care and treatment of mentally disordered offenders, declare that it is the policy of each of the party states to:

1. Strengthen their own programs and laws for the care and treatment of the mentally disordered offender.

2. Encourage and provide for such care and treatment in the most appropriate locations, giving due recognition to the need to achieve adequacy of diagnosis, care, treatment, after-

care and auxiliary services and facilities and, to every extent practicable, to do so in geographic locations convenient for providing a therapeutic environment.

3. Authorize cooperation among the party states in providing services and facilities, when it is found that cooperative programs can be more effective and efficient than programs separately pursued.

4. Place each mentally disordered offender in a legal status which will facilitate his care, treatment and rehabilitation.

5. Authorize research and training of personnel on a cooperative basis, in order to improve the quality or quantity of personnel available for the proper staffing of programs, services and facilities for mentally disordered offenders.

6. Care for and treat mentally disordered offenders under conditions which will improve the public safety.

(b) Within the policies set forth in this Article, it is the purpose of this compact to:

1. Authorize negotiation, entry into, and operations under contractual arrangements among any two or more of the party states for the establishment and maintenance of cooperative programs in any one or more of the fields for which specific provision is made in the several articles of this compact.

2. Set the limits within which such contracts may operate, so as to assure protection of the civil rights of mentally disordered offenders and protection of the rights and obligations of the public and of the party states.

3. Facilitate the proper disposition of criminal charges pending against mentally disordered offenders, so that programs for their care, treatment and rehabilitation may be carried on efficiently.

ARTICLE II

Definitions

As used in this compact:

(a) "Mentally disordered offender" means a person who has been determined, by adjudication or other method legally sufficient for the purpose in the party state where the determination is made, to be mentally ill and:

1. Is under sentence for the commission of crime; or

2. Who is confined or committed on account of the commission of an offense for which, in the absence of mental illness, said person would be subject to incarceration in a penal or correctional facility.

(b) "Patient" means a mentally disordered offender who is cared for, treated, or transferred pursuant to this compact.

(c) "Sending state" means a state party to this compact in which the mentally disordered offender was convicted; or the state in which he would be subject to trial on or conviction of an offense, except for his mental condition; or, within the meaning of Article V of this compact, the state whose authorities have filed a petition in connection with an untried indictment, information or complaint.

(d) "Receiving state" means a state party to this compact to which a mentally disordered offender is sent for care, after-care, treatment or rehabilitation, or within the meaning of Article V of this compact, the state in which a petition in connection with an untried indictment, information or complaint has been filed.

ARTICLE III

Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the care and treatment of mentally disordered offenders on behalf of a sending state in facilities situated in receiving states, or for the participation of such mentally disordered offenders in programs of after-care on conditional release administered by the receiving state. Any such contract shall provide for:

1. Its duration.
2. Payments to be made to the receiving state by the sending state for patient care, treatment, and extraordinary services, if any.
3. Determination of responsibility for ordering or permitting the furnishing of extraordinary services, if any.
4. Participation in compensated activities, if any, available to patients; the disposition or crediting of any payment received by patients on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.
5. Delivery and retaking of mentally disordered offenders.
6. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any facility for mentally disordered offenders or addition to such facility by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the facility or addition thereto, or for the inclusion

therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the facility to be kept available for use by patients of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) A party state may contract with any one or more other party states for the training of professional or other personnel whose services, by reason of such training, would become available for or be improved in respect of ability to participate in the care and treatment of mentally disordered offenders. Such contracts may provide for such training to take place at any facility being operated or to be operated for the care and treatment of mentally disordered offenders; at any institution or facility having resources suitable for the offering of such training; or may provide for the separate establishment of training facilities, provided that no such separate establishment shall be undertaken, unless it is determined that an appropriate existing facility or institution cannot be found at which to conduct the contemplated program. Any contract entered into pursuant to this paragraph shall provide for:

1. The administration, financing, and precise nature of the program.
2. The status and employment or other rights of the trainees.
3. All other necessary matters.

(d) No contract entered into pursuant to this compact shall be inconsistent with any provision thereof.

ARTICLE IV

Procedures and Rights

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that custody, care and treatment in, or transfer of a patient to, a facility within the territory of another party state, or conditional release for after-care in another party state is necessary in order to provide adequate care and treatment or is desirable in order to provide an appropriate program of therapy or other treatment, or is desirable for clinical reasons, said officials may direct that the custody, care and treatment be within a facility or in a program of after-care within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times to any facility in which it has a contractual right to secure care or treatment of patients for the purpose of inspection and visiting such of its patients as may be in the facility or served by it.

(c) Except as otherwise provided in Article VI, patients in a facility pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed for transfer to a facility within the sending state, for transfer to another facility in which the sending state may have a contractual or other right to secure care and treatment of patients, for release on after-care or other conditional status, for discharge, or for any other purpose permitted by the laws of the sending state: provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the patients of that sending state in facilities pursuant to this compact including a psychiatric and behavioral record of each patient and certify said record to the official designated by the sending state, in order that each patient may have the benefit of his or her record in determining and altering the disposition of said patient in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All patients who may be in a facility or receiving after-care from a facility pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for, treated and supervised in accordance with the standards pertaining to the program administered at the facility. The fact of presence in a receiving state shall not deprive any patient of any legal rights which said patient would have had if in custody or receiving care, treatment or supervision as appropriate in the sending state.

(f) Any hearing or hearings to which a patient present in a receiving state pursuant to this compact may be entitled by the laws of the sending state shall be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by

the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this paragraph, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this paragraph shall be borne by the sending state.

(g) Any patient confined pursuant to this compact shall be released within the territory of the sending state unless the patient, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any patient pursuant to the terms of this compact shall be subject to civil process and shall have any and all rights to sue, be sued and participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if in any appropriate facility of the sending state or being supervised therefrom, as the case may be, located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any patient shall not be deprived of or restricted in his exercise of any power in respect of any patient pursuant to the terms of this compact.

ARTICLE V

Disposition of Charges

(a) Whenever the authorities responsible for the care and treatment of a mentally disordered offender, whether convicted or adjudicated in the state or subject to care, after-care, treatment or rehabilitation pursuant to a contract, are of the opinion that charges based on untried indictments, informations or complaints in another party state present obstacles to the proper care and treatment of a mentally disordered offender or to the planning or execution of a suitable program for him, such authorities may petition the appropriate court in the state where the untried indictment, information or complaint is pending for prompt disposition thereof. If the mentally disordered offender is a patient in a receiving state, the appropriate authorities of the sending state, upon recommendation of the appropriate authorities in the receiving state, shall, if they concur in the recommendation, file the petition contemplated by this paragraph.

(b) The court shall hold a hearing on the petition within thirty days of the filing thereof. Such hearing shall be only to determine whether the proper safeguarding and advancement of the public interest; the condition of the mentally disordered offender, and the prospects for more satisfactory care, treatment and rehabilitation of him warrant disposition of the untried indictment, information or complaint prior to termination of the defendant's status as a mentally disordered offender in the sending state. The prosecuting officer of the jurisdiction from which the untried indictment, information or complaint is pending, the petitioning authorities, and such other persons as the court may determine shall be entitled to be heard.

(c) Upon any hearing pursuant to this Article, the court may order such adjournments or continuances as may be necessary for the examination or observation of the mentally disordered offender or for the securing of necessary evidence. In granting or denying any such adjournment or continuance, the court shall give primary consideration to the purposes of this compact, and more particularly to the need for expeditious determination of the legal and mental status of a mentally disordered offender so that his care, treatment and discharge to the community only under conditions which will be consonant with the public safety may be implemented.

(d) The presence of a mentally disordered offender within a state wherein a petition is pending or being heard pursuant to this Article, or his presence within any other state through which he is being transported in connection with such petition or hearing, shall be only for the purposes of this compact, and no court, agency or person shall have or obtain jurisdiction over such mentally disordered offender for any other purpose by reason of his presence pursuant to this Article. The mentally disordered offender shall, at all times, remain in the custody of the sending state. Any acts of officers, employees, or agencies of the receiving state in providing or facilitating detention, housing or transportation for the mentally disordered offender shall be only as agents for the sending state.

(e) Promptly upon conclusion of the hearing the court shall dismiss the untried indictment, information or complaint, if it finds that the purposes enumerated in paragraph (b) of this Article would be served thereby. Otherwise, the court shall make such order with respect to the petition and the untried indictment, information or complaint as may be appropriate in the circumstances and consistent with the status of the defendant as a mentally disordered offender in the custody of and subject to the jurisdiction of the sending state.

(f) No fact or other matter established or adjudicated at any hearing pursuant to this Article, or in connection there-

with, shall be deemed established or adjudicated, nor shall the same be admissible in evidence, in any subsequent prosecution of the untried indictment, information or complaint concerned in a petition filed pursuant to this Article unless:

1. The defendant or his duly empowered legal representative requested or expressly acquiesced in the making of the petition, and was afforded an opportunity to participate in person in the hearing; or
2. The defendant himself offers or consents to the introduction of the determination or adjudication at such subsequent proceedings.

ARTICLE VI

Acts Not Reviewable in Receiving State; Return

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove a patient from the receiving state there is pending against the patient within such state any criminal charge or if the patient is suspected of having committed within such state a criminal offense, the patient shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport patients pursuant to this compact through any and all states party to this compact without interference.

(b) A patient who escapes while receiving care and treatment or who violates provisions of after-care by leaving the jurisdiction, or while being detained or transported pursuant to this compact shall be deemed an escapee from the sending state and from the state in which the facility is situated or the after-care was being provided. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for return shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VII

Federal Aid

Any state party to this compact may accept federal aid for use in connection with any facility or program, the use of which is or may be affected by this compact or any contract pursuant thereto and any patient in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states

have made contractual provision: provided that if such program or activity is not part of the customary regimen of the facility, or program the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VIII

Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states from among the states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state upon similar action by such state.

ARTICLE IX

Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such patients as it may have in other party states pursuant to the provisions of this compact.

ARTICLE X

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the custody, care, treatment, rehabilitation or after-care of patients nor to repeal any other laws of a party state authorizing the making of cooperative arrangements.

ARTICLE XI

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected

thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 2. State Health Officer Shall Administer Compact.) The state health officer is hereby authorized to negotiate and enter into contracts on behalf of the state pursuant to Article III of the compact and may perform such contracts, provided that no funds, personnel, facilities, equipment, supplies or materials shall be pledged, committed or used on account of any such contract unless legally available therefor.

Approved March 14, 1967.

CHAPTER 222

S. B. No. 390

(Larsen, Lowe, Litten, Longmire, Coughlin)

SHELTERED WORKSHOPS FOR THE HANDICAPPED

AN ACT

To provide for the establishment, administration, organization, and management of sheltered workshops.

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

§ 1. Legislative Intent.) The purposes of this Act are:

1. To improve rehabilitation services for the seriously handicapped including the mentally retarded in North Dakota by providing for the development and continuation of long-term sheltered workshops.
2. To provide for licensure and standard-setting for sheltered workshops, and to establish responsibility for development and continuation of a statewide program by the division of vocational rehabilitation.

§ 2. Sheltered Workshop—Definition.) For purposes of this Act, a sheltered workshop is a nonprofit organization where useful work is carried on, and which is operated for the purpose of providing remunerative employment to severely handicapped individuals, including the mentally retarded, who are unable to participate in competitive employment due to their disability. A long-term sheltered workshop shall supply such employment:

1. As a step in the rehabilitative process for those who cannot be readily absorbed in the competitive labor market.
2. During such time as employment opportunities for them in the competitive labor market do not exist.

§ 3. Advisory Committee.) The division of vocational rehabilitation shall appoint a sheltered workshop advisory committee of eleven members, seven members of which shall be representatives of each of the following state organizations or agencies:

1. Division of vocational rehabilitation.
2. Department of public instruction—special education.
3. Workmen's compensation bureau.
4. North Dakota state employment service.
5. Organized labor.
6. Public welfare board—medical services.
7. North Dakota association for retarded children.

The other four members shall be appointed from professional, legislative, or civic groups, or from other public or non-public voluntary agencies. Such members shall serve at the pleasure of the division of vocational rehabilitation without compensation.

It shall be the duty of the sheltered workshop advisory committee to recommend standards for community sheltered workshops for the seriously handicapped, including the mentally retarded. These standards shall include those for physical plant, programming, staff, ratio of staff to persons served, policies, records and reports required, and such other standards deemed appropriate, and shall submit the same to the division for its approval. The committee shall also advise the division on the general policy involved in the provision of sheltered workshop services and shall perform such other functions as the division may request.

§ 4. Duties of the Division of Vocational Rehabilitation.)

1. The division of vocational rehabilitation shall issue licenses on an annual basis to programs meeting approved standards and applying for licensure.
2. Other duties of the division:
 - a. To encourage the development of local community initiative in broadening the scope of noninstitutional care and training programs for persons who are mentally retarded or seriously handicapped.

- b. To maintain minimum standards for the operation of such programs.
- c. To review the experience of individual programs as they develop.
- d. To foster the progress of sheltered workshops to higher levels of service and to stimulate their rehabilitative aspects.

§ 5. Organizations Eligible for Licensure.) Eligible local community organizations shall be organizations which are nonprofit corporations operating sheltered workshops and serving the seriously handicapped, including the mentally retarded, without regard to race, religion, or national origin. Such organizations shall be licensed in accordance with this Act and conform to standards recommended by the advisory committee and established by the division of vocational rehabilitation.

§ 6. Qualifications for Licensure.) In order to be eligible for licensure, the sheltered workshops shall operate their program under the direction of a board of directors from the local community and shall be appointed by the officers of the nonprofit corporation. This board of directors shall be made up of a minimum of nine members and not more than thirteen members. It shall serve without compensation. Membership shall include representatives of local health, education, welfare, employment and vocational rehabilitation agencies, lay associations for the disabled, and business and civic groups. It may also include individuals who are legislators, members of a town board, city or village council, or a board of county commissioners, as well as professional members and the lay public.

The term of office of each member of the community sheltered workshop board shall be for four years, measured from the first day of the year of appointment except as follows: of the members first appointed, at least three shall be appointed for a term of two years, at least three for a term of three years, and at least three for a term of four years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

§ 7. Duties of Community Sheltered Workshop Board.) Subject to the provisions of this Act and the rules and regulations of the division of vocational rehabilitation, each community sheltered workshop board shall:

1. Employ necessary and qualified personnel, including an employee who will administer the program.
2. Review and evaluate the need for a sheltered workshop program as provided for by this Act and report thereon to the division of vocational rehabilitation, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities.
3. Recruit and promote financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources.
4. Promote, arrange, and implement working agreements with other public and private agencies.
5. Advise the administrator of the sheltered workshop on the adoption and implementation of policies to stimulate effective community relations.
6. Review the annual plan and budget and make recommendations thereon.

Approved March 14, 1967.

CHAPTER 223

S. B. No. 249

(Longmire, Ruemmele, Kelly(24), Litten, Pyle)

PURCHASE OF RESIDENTIAL CARE FOR MENTALLY RETARDED

AN ACT

To provide for the purchasing of residential care, custody, training, treatment or education of the mentally retarded by the state from private, nonprofit, charitable organizations.

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

§ 1. Definitions.) In this chapter unless the context or subject matter otherwise requires:

1. "Treatment and/or care center" shall mean any hospital, home, or other premises, owned and operated by a charitable nonprofit corporation or association, especially to provide relief, care, custody, treatment, training or education of the mentally retarded.

2. "Division" shall mean the state mental health and retardation division of the state department of health.

§ 2. License Required.) Any charitable nonprofit association or corporation which operates a treatment and/or care center for mentally retarded shall secure annually from the division a license as required in this chapter.

§ 3. Requirements for License.) A license for the operation of a treatment and/or care center for mentally retarded shall be issued by the division to reputable and responsible charitable nonprofit associations or corporations upon showing that:

1. The premises to be used are in fit safe sanitary condition and properly equipped to provide good care and treatment;
2. The persons in active charge of the center and their assistants are qualified by training and experience to carry on efficiently the duties required of them;
3. The health, morality, safety and well-being of the residents cared for and treated therein will be properly safeguarded;
4. There is sufficient entertainment, treatment, educational, and physical facilities and services available to the residents therein; and
5. Appropriate arrangements are made for a medical and psychological examination of each resident at least once every six months.

§ 4. Inspection and Report by State Department of Health.) The division shall inspect the facilities and premises of the applicant to determine sanitary conditions and the adequacy of medical and nursing services.

§ 5. Content of License.) The license to operate a treatment and/or care center for mentally retarded issued under the provisions of this chapter shall set forth:

1. The name of the licensee;
2. The premises to which the license is applicable;
3. The number of residents who may be received in such premises at any one time; and
4. The date of expiration of the license.

§ 6. Regulation by State Mental Health and Retardation Division of State Department of Health.) The division may prescribe forms for the registration and record of the residents residing in treatment and/or care centers for mentally retarded and shall make such reasonable rules and regulations

for the conduct of such centers as are necessary to carry out the purposes of this chapter.

§ 7. Records of Treatment and/or Care Center for Mentally Retarded Confidential.) No agent of the department of health or the superintendent of the Grafton state school or the licensee or their agents or employees shall disclose the contents of the individual records of a treatment and/or care center for mentally retarded, nor of the reports received therefrom, except:

1. In a judicial proceeding when ordered by the presiding judge; or
2. To officers of the law or any other legally constituted boards or agencies serving the interests of the residents; or
3. To the parents or legal guardians of the resident.

§ 8. Revocation of License.) The division may revoke a license of a treatment and/or care center for mentally retarded upon a proper showing that:

1. Any of the conditions set forth in section 3 as requirements for the issuance of the license no longer exists;
2. The license was issued upon fraudulent or untrue representations;
3. The owner or operator has violated any of the rules and regulations of the division; or
4. The owner or operator of the center has been guilty of the violation of any law of this state disclosing moral turpitude.

§ 9. Hearing on Denial or Revocation of License.) Before any application for a license to conduct a treatment and/or care center for mentally retarded shall be denied or before the revocation of such license by the division, written charges as to the reasons therefor shall be served upon the applicant or licensee, who shall have the right to a hearing before the division, if such hearing is requested within ten days after service of written charges.

§ 10. Purchase of Services.) The state mental health and retardation division of the state department of health is hereby authorized to purchase from funds appropriated to it for that purpose, residential care, custody, treatment, training, and education for mentally retarded from any treatment and/or care center for mentally retarded licensed in the state of North Dakota. The cost of such care, custody, treatment and education for each resident shall not exceed the per diem cost of

residential care at the largest state institution serving the mentally retarded in North Dakota as determined by the superintendent of that institution for the fiscal year preceding the contract.

§ 11. Funds of State Mental Health and Retardation Division of the State Department of Health for Purchasing Residential Care, Custody, Treatment and Education for Mentally Retarded.) All moneys received from appropriation by the legislature to purchase residential care, custody, treatment, training, and education for mentally retarded from any treatment and/or care centers licensed in North Dakota shall be kept by the state treasurer in a fund known as the "fund of the state mental health and retardation division of the state department of health for purchasing residential care, custody, treatment, training, and education for mentally retarded", and all expenditures made under the provisions of this chapter shall be upon warrants prepared by the department of accounts and purchases and signed by the state auditor, such expenditures to be supported by vouchers to be signed by the director of the mental health and retardation division of the state department of health or his agents, or by such other officer or assistants as the division may designate and certify to the department of accounts and purchases. Any fund received from federal agencies shall be deposited and disbursed in the manner provided by Act of Congress or by the regulations of the federal agencies from which the funds were received.

§ 12. State Mental Health and Retardation Division of State Department of Health Funds.) The state mental health and retardation division of the state department of health and the duly licensed treatment and/or care center for mentally retarded are hereby authorized to exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of the mentally retarded.

§ 13. Expenses Chargeable Against Patient, His Estate or Responsible Relatives.) The provisions of this chapter shall in no way relieve the responsibility of the patient, his estate, or responsible relatives of the expenses for care and treatment as is provided in chapter 25-09 of the North Dakota Century Code, and all the provisions of chapter 25-09 and other statutes applicable to the expenses of care and treatment of patients shall apply to this chapter.

Approved March 14, 1967.

CHAPTER 224

S. B. No. 52
(Longmire, Ruemmele)
(From LRC Study)

TESTING AND TREATMENT FOR PHENYLKETONURIA

AN ACT

To provide for the testing and treatment of the disease phenylketonuria and other metabolic diseases causing mental retardation, providing for an educational program concerning such diseases under the direction of the department of health, and requiring physicians attending newborn infants to subject such infants to tests for phenylketonuria and other metabolic diseases.

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

§ 1. Phenylketonuria Education Programs and Tests.) The state department of health shall:

1. Develop and carry out an intensive educational program among physicians, staffs of hospitals, public health nurses, and the citizens of this state concerning the disease phenylketonuria and other metabolic diseases causing mental retardation for which appropriate methods of detection, prevention, or treatment are available. This educational program shall include information about the nature of the diseases and examinations for the early detection of such diseases in order that proper measures may be taken to prevent mental retardation;

2. Provide on a statewide basis screening, diagnostic, and treatment control tests for which approved laboratory procedures are available for phenylketonuria and other metabolic diseases causing mental retardation.

§ 2. Establishment of Testing Regulations—Approval of Laboratories and Personnel.) The state department of health shall establish standards and methods of testing to be employed and for the determination of the above-referred diseases, in addition to phenylketonuria, for which statewide testing programs are to be established.

§ 3. Treatment for Positive Diagnosis—Registry of Cases.) The state department of health shall:

1. Follow up all cases with positive tests for phenylketonuria and other metabolic diseases with the attending physician in order to determine the exact diagnosis;

2. Make arrangements for the necessary treatment for diagnosed cases where treatment is indicated and the family is unable to pay the cost of such treatment;
3. Maintain a registry of cases of phenylketonuria and other metabolic diseases for the purpose of follow-up services to prevent mental retardation.

§ 4. Physician to Initiate Test and Report Positive Diagnosis.) The physician attending a newborn child shall cause such child to be subjected to a phenylketonuria test, as well as other tests for errors of metabolism, in the manner prescribed by the state department of health. A physician attending a case of phenylketonuria or other metabolic disease which may cause mental retardation shall report such case to the state department of health. The provisions of this section shall not apply if the parents of such child object thereto on the grounds that such test conflicts with their religious tenets and practices.

Approved February 11, 1967.