

HOUSE BILL NO. 1217

Introduced by

Representatives DeKrey, Delmore, Koppelman

Senators Hacker, Lyson, Nelson

1 A BILL for an Act to amend and reenact section 25-03.3-13 of the North Dakota Century Code,
2 relating to the proof required for sexually dangerous individual civil commitment.

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

4 **SECTION 1. AMENDMENT.** Section 25-03.3-13 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **25-03.3-13. Sexually dangerous individual - Commitment proceeding - Report of**
7 **findings.** Within sixty days after the finding of probable cause, the court shall conduct a
8 commitment proceeding to determine whether the respondent is a sexually dangerous
9 individual. The court may extend the time for good cause. At the commitment proceeding, any
10 testimony and reports of an expert who conducted an examination are admissible, including risk
11 assessment evaluations. Any proceeding pursuant to this chapter must be tried to the court
12 and not a jury. At the commitment proceeding, the state's attorney shall present evidence in
13 support of the petition and the burden is on the state to show by clear and convincing evidence
14 that the respondent is a sexually dangerous individual. An individual may not be committed
15 unless expert evidence is admitted establishing that ~~at least two experts have concluded~~ the
16 individual has a congenital or acquired condition that is manifested by a sexual disorder, a
17 personality disorder, or other mental disorder or dysfunction that makes that individual likely to
18 engage in further acts of sexually predatory conduct. The respondent has a right to be present,
19 to testify, and to present and cross-examine witnesses. If the respondent is found to be a
20 sexually dangerous individual, the court shall commit the respondent to the care, custody, and
21 control of the executive director. The executive director shall place the respondent in an
22 appropriate facility or program at which treatment is available. The appropriate treatment
23 facility or program must be the least restrictive available treatment facility or program necessary
24 to achieve the purposes of this chapter. The executive director may not be required to create a

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1 less restrictive treatment facility or treatment program specifically for the respondent or
2 committed individual. Unless the respondent has been committed to the legal and physical
3 custody of the department of corrections and rehabilitation, the respondent may not be placed
4 at and the treatment program for the respondent may not be provided at the state penitentiary
5 or an affiliated penal facility. If the respondent is found not to be a sexually dangerous
6 individual, the court shall discharge the respondent.