

SENATE BILL NO. 2421

Introduced by

Senators Mathern, Dever, Wardner

Representatives Delmore, Svedjan

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

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

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

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

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

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

5 **25-03.1-11. Involuntary treatment - Examination - Report.**

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

15 The report must contain:

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

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

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

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

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

19 **SECTION 3. AMENDMENT.** Subsection 1 of section 25-03.1-25 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 1. When a peace officer, physician, psychiatrist, psychologist, or mental health
22 professional has reasonable cause to believe that an individual is a person
23 requiring treatment and there exists a serious risk of harm to that person, other
24 persons, or property of an immediate nature that considerations of safety do not
25 allow preliminary intervention by a magistrate, the peace officer, physician,
26 psychiatrist, psychologist, or mental health professional may cause the person to
27 be taken into custody and detained at a treatment facility as provided in
28 subsection 3, and subject to section 25-03.1-26, except that if emergency
29 conditions exist that prevent the immediate conveyance of the individual to a public
30 treatment facility, a private facility that has adequate resources and capacity to

1 hold that individual may hold the individual in anticipation of conveyance to a public
2 treatment facility for up to ~~twenty-three~~ seventy-two hours:

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

4 b. Without conducting an immediate examination required under section
5 25-03.1-26; and

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

8 **SECTION 4. LEGISLATIVE COUNCIL STUDY - INVOLUNTARY MENTAL HEALTH**

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