

MENTAL AND PHYSICAL ILLNESS OR DISABILITY

CHAPTER 238

SENATE BILL NO. 2421

(Senators Mathern, Dever, Wardner)
(Representatives Delmore, Svedjan)

AN ACT to amend and reenact subsections 7 and 8 of section 25-03.1-02 and section 25-03.1-11 of the North Dakota Century Code, relating to emergency procedures for mental health commitments; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁰ **SECTION 1. AMENDMENT.** Subsections 7 and 8 of section 25-03.1-02 of the North Dakota Century Code are amended and reenacted as follows:

7. "Expert examiner" means a licensed physician, psychiatrist, psychologist trained in a clinical program, or licensed addiction counselor appointed by the court to examine the respondent and to provide an evaluation of whether the respondent is a person requiring treatment. ~~An evaluation of a respondent's physical condition may be made only by a licensed physician or psychiatrist; an evaluation of a respondent's mental status may be made only by a psychiatrist or psychologist trained in a clinical program; and an evaluation of whether the respondent is chemically dependent may be made only by a licensed physician, licensed addiction counselor, or licensed psychologist trained in a clinical program.~~
8. "Independent expert examiner" means a licensed physician, psychiatrist, psychologist trained in a clinical program, or licensed addiction counselor, chosen at the request of the respondent to provide an independent evaluation of whether the respondent is a person requiring treatment. ~~An evaluation of a respondent's physical condition may be made only by a licensed physician or psychiatrist; an evaluation of a respondent's mental status may be made only by a psychiatrist or psychologist; and an evaluation of whether the respondent is chemically dependent may be made only by a licensed physician, licensed addiction counselor, or licensed psychologist trained in a clinical program.~~

¹¹⁰ Section 25-03.1-02 was also amended by section 1 of Senate Bill No. 2098, chapter 239.

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

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

1. The respondent must be examined within a reasonable time by an expert examiner as ordered by the court. If the respondent is taken into custody under the emergency treatment provisions of this chapter, the examination must be conducted within twenty-four hours, exclusive of holidays, of custody. Any expert examiner conducting an examination under this section may consult with or request participation in the examination by any qualified mental health professional and may include with the written examination report any findings or observations by that mental health professional. This examination report, and that of the independent examiner, if one has been requested, must be filed with the court. The report must contain:
 - a. Evaluations of the respondent's physical condition and mental status.
 - b. A conclusion as to whether the respondent is a person requiring treatment, with a clear explanation of how that conclusion was derived from the evaluation.
 - c. If the report concludes that the respondent is a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
 - d. The signature of the examiner who prepared the report.
2. For purposes of any examination conducted pursuant to this section:
 - a. An evaluation of a respondent's physical condition may be made only by a licensed physician or psychiatrist.
 - b. An evaluation of a respondent's mental status may be made only by a psychiatrist or psychologist trained in a clinical program.
 - c. An evaluation of whether the respondent is chemically dependent may be made only by a licensed physician, licensed addiction counselor, or licensed psychologist trained in a clinical program.
3. If the expert examiner concludes that the respondent is not a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the expert examiner concludes that the respondent is a person requiring treatment, or makes no conclusion thereon, the court shall set a date for hearing and shall give notice of hearing to the persons designated in section 25-03.1-12. If the respondent is in custody and is alleged to be suffering from mental illness or a combination of mental illness and chemical dependency, the preliminary hearing date must be within four days, exclusive of weekends and holidays, of the date respondent was taken into custody through emergency commitment under section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If a preliminary hearing is not required, the treatment hearing must be held

within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served.

SECTION 3. LEGISLATIVE COUNCIL STUDY - INVOLUNTARY MENTAL HEALTH COMMITMENT PROCEDURES. During the 2009-10 interim, the legislative council shall consider studying the involuntary mental health commitment procedures under North Dakota Century Code chapter 25-03.1. The study must include an assessment of the availability of psychiatric services in the state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 239**SENATE BILL NO. 2098**

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 12 of section 25-03.1-02 and sections 25-03.1-04, 25-03.1-08, 25-03.1-10, 25-03.1-21, 25-03.1-25, and 25-03.1-34 of the North Dakota Century Code, relating to commitment to a public or private facility of a person requiring treatment due to mental illness or chemical dependency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹¹ **SECTION 1. AMENDMENT.** Subsection 12 of section 25-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

12. "Person requiring treatment" means a person who is mentally ill or chemically dependent, and there is a reasonable expectation that if the person is not treated for the mental illness or chemical dependency there exists a serious risk of harm to that person, others, or property. "Serious risk of harm" means a substantial likelihood of:
- a. Suicide, as manifested by suicidal threats, attempts, or significant depression relevant to suicidal potential;
 - b. Killing or inflicting serious bodily harm on another person or inflicting significant property damage, as manifested by acts or threats;
 - c. Substantial deterioration in physical health, or substantial injury, disease, or death, based upon recent poor self-control or judgment in providing one's shelter, nutrition, or personal care; or
 - d. Substantial deterioration in mental health which would predictably result in dangerousness to that person, others, or property, based upon evidence of objective facts to establish the loss of cognitive or volitional control over the person's thoughts or actions or based upon acts, threats, or patterns in the person's treatment history, current condition, and other relevant factors, including the effect of the person's mental condition on the person's ability to consent.

SECTION 2. AMENDMENT. Section 25-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-04. Screening and admission to a public treatment facility.

Under rules adopted by the department, screening ~~and admission~~ of an individual to a public treatment facility for observation, diagnosis, care, or treatment for mental

¹¹¹ Section 25-03.1-02 was also amended by section 1 of Senate Bill No. 2421, chapter 238.

illness or chemical dependency must be performed, in person whenever reasonably practicable, by a regional human service center. This screening must be performed in the region where the individual is physically located. Upon the request of a court, a law enforcement official, a qualified mental health professional, the individual's legal guardian, a minor's parent or legal custodian, or the individual requesting services, the regional human service center shall conduct a screening. If a request for screening is made by a qualified mental health professional and the individual that is the subject of the screening does not authorize the disclosure of the individual's protected health information, upon the request of the regional human service center, any mental health professional who has treated the individual within the previous six months shall disclose, subject to the requirements of title 42, Code of Federal Regulations, part 2, to the human service center any relevant protected health information regarding that treatment. Upon receipt of the request, the regional human service center shall arrange for a screening of the individual and must, if appropriate, treat the applicant, or refer the applicant to the appropriate treatment facility. Upon admittance to a public treatment facility, the superintendent or director shall immediately designate a physician, psychiatrist, psychologist, or mental health professional to examine the individual.

SECTION 3. AMENDMENT. Section 25-03.1-08 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-08. Application to state's attorney or retained attorney - Petition for involuntary treatment - Investigation by qualified mental health professional. Any person eighteen years of age or over shall present the information necessary for the commitment of an individual for involuntary treatment to the state's attorney of the county where the respondent is presently located, or which is the respondent's place of residence, or to an attorney retained by that person to represent the applicant throughout the proceedings. The attorney shall assist the person in completing the petition. The petition must be verified by affidavit of the applicant and contain assertions that the respondent is a person requiring the treatment; the facts, in detail, that are the basis of that assertion; the names, telephone numbers, and addresses, if known, of any witnesses to those facts; and, if known, the name, telephone number, and address of the nearest relative or guardian of the respondent, or, if none, of a friend of the respondent. The petition may be accompanied by any of the following:

1. A written statement supporting the petition from a psychiatrist, physician, ~~or~~ psychologist, or addiction counselor who is practicing within the professional scope of practice and who has personally examined the respondent within forty-five days of the date of the petition.
2. One or more supporting affidavits otherwise corroborating the petition.

In assisting the person in completing the petition, the state's attorney may direct a qualified mental health professional designated by the regional human service center to investigate and evaluate the specific facts alleged by the applicant. The investigation must be completed as promptly as possible and include observations of and conversation with the respondent, unless the respondent cannot be found or refuses to meet with the mental health professional. A written report of the results of the investigation must be delivered to the state's attorney. Copies of the report must be made available upon request to the respondent, the respondent's counsel, and any expert examiner conducting an examination under section 25-03.1-11. The state's attorney or retained attorney shall file the petition if the information provided by the petitioner or gathered by investigation provides probable cause to believe that the subject of the petition is a person requiring treatment. A state's attorney who determines there are insufficient grounds for filing a petition may refer the applicant

to other community resources. A state's attorney's decision not to institute proceedings may be reviewed under section 11-16-06.

SECTION 4. AMENDMENT. Section 25-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-10. Involuntary treatment - Court-ordered examination. If the petition is not accompanied by a written supportive statement of a psychiatrist, physician, or psychologist, or addiction counselor who has examined the respondent within the last forty-five days, the court shall order the respondent to be examined by an expert examiner of the respondent's own choice or one appointed by the court. The order must state the date and time within which the respondent must appear; the address to which the respondent is to report; a statement that if the respondent fails to appear at the appointed place at or before the ordered date and time, the respondent may be involuntarily taken into custody and transported to the appointed place; and a statement that the expert examiner may consult with or request participation in the examination by a qualified mental health professional and may include with the written examination report any findings or observations by that mental health professional. Accompanying the order must be an explanation of the intended uses and possible effects of this examination. The examination may be conducted at a treatment facility, at the respondent's home, or at any other suitable place in the community. A request for examination at the state hospital must be screened and approved by a regional human service center. The respondent may be accompanied by one or more relatives or friends at the place of the examination. The costs of the court-ordered examination must be borne by the county that is the respondent's place of residence.

SECTION 5. AMENDMENT. Section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-21. Involuntary treatment order - Alternatives to hospitalization - Noncompliance with alternative treatment order - Emergency detention by certain professionals - Application for continuing treatment order.

1. Before making its decision in an involuntary treatment hearing, the court shall review a report assessing the availability and appropriateness for the respondent of treatment programs other than hospitalization which has been prepared and submitted by the state hospital or treatment facility. If the court finds that a treatment program other than hospitalization is adequate to meet the respondent's treatment needs and is sufficient to prevent harm or injuries which the individual may inflict upon the individual or others, the court shall order the respondent to receive whatever treatment other than hospitalization is appropriate for a period of ninety days.
2. If the respondent is not complying with the alternative treatment order or the alternative treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon the individual or others, the department, a representative of the treatment program involved in the alternative treatment order, the petitioner's retained attorney, or the state's attorney may apply to the court or to the district court of a different judicial district in which the respondent is located to modify the alternative treatment order. The court shall hold a hearing within seven days after the application is filed. Based upon the evidence presented at hearing and other available information, the court may:

- a. Continue the alternative treatment order;
 - b. Consider other alternatives to hospitalization, modify the court's original order, and direct the individual to undergo another program of alternative treatment for the remainder of the ninety-day period; or
 - c. Enter a new order directing that the individual be hospitalized until discharged from the hospital under section 25-03.1-30. If the individual refuses to comply with this hospitalization order, the court may direct a peace officer to take the individual into protective custody and transport the respondent to a treatment facility.
3. If a peace officer, physician, psychiatrist, clinical psychologist, or any mental health professional reasonably believes that the respondent is not complying with an order for alternative treatment $\text{\textcircled{e}}$, that the alternative treatment is not sufficient to prevent harm or injuries to the respondent or others, and that considerations of time and safety do not allow intervention by a court, the designated professional may cause the respondent to be taken into custody and detained at a treatment facility as provided in subsection 3 of section 25-03.1-25 and, within twenty-four hours, shall file a notice with the court stating the circumstances and factors of the case. The state hospital or public treatment facility must immediately accept, if appropriately screened and medically stable, and a private treatment facility may accept, the respondent on a provisional basis. The superintendent or director shall require an immediate examination of the respondent and, within twenty-four hours after admission, shall either release the respondent subject to the conditions of the original order or file a notice with the court stating in detail the circumstances and factors of the case. The court shall, within forty-eight hours of receipt of the notice of the superintendent or director, after a hearing and based on the evidence presented and other available information:
- a. Release the individual from hospitalization and continue the alternative treatment order;
 - b. Consider other alternatives to hospitalization, modify its original order, and direct the individual to undergo another program of alternative treatment for the remainder of the commitment period; or
 - c. Enter a new order directing that the respondent remain hospitalized until discharged from the hospital under section 25-03.1-30.
4. If, at the date of expiration of an order of alternative treatment, it is believed that an individual continues to require treatment, a petition for a determination that the individual continues to be a person requiring treatment may be filed with the court where the individual is located.

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

25-03.1-25. Detention or hospitalization - Emergency procedure.

1. When a peace officer, physician, psychiatrist, psychologist, or mental health professional has reasonable cause to believe that an individual is a person requiring treatment and there exists a serious risk of harm to that person, other persons, or property of an immediate nature that considerations of safety do not allow preliminary intervention by a magistrate, the peace officer, physician, psychiatrist, psychologist, or mental health professional, using the screening process set forth in section 25-03.1-04, may cause the person to be taken into custody and detained at a treatment facility as provided in subsection 3, and subject to section 25-03.1-26, except that if emergency conditions exist that prevent the immediate conveyance of the individual to a public treatment facility, a private facility that has adequate resources and capacity to hold that individual may hold the individual in anticipation of conveyance to a public treatment facility for up to twenty-three hours:
 - a. Without conducting an immediate examination required under section 25-03.1-26; and
 - b. Without following notice and hearing requirements for a transfer to another treatment facility required under subsection 3 of section 25-03.1-34.
2. If a petitioner seeking the involuntary treatment of a respondent requests that the respondent be taken into immediate custody and the magistrate, upon reviewing the petition and accompanying documentation, finds probable cause to believe that the respondent is a person requiring treatment and there exists a serious risk of harm to the respondent, other persons, or property if allowed to remain at liberty, the magistrate may enter a written order directing that the respondent be taken into immediate custody and be detained as provided in subsection 3 until the preliminary or treatment hearing, which must be held no more than seven days after the date of the order.
3. Detention under this section may be:
 - a. In a treatment facility where the director or superintendent must be informed of the reasons why immediate custody has been ordered. The facility may provide treatment that is necessary to preserve the respondent's life or to appropriately control behavior by the respondent which is likely to result in physical injury to self or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent's consent; or
 - b. In a public or private facility in the community which is suitably equipped and staffed for the purpose. Detention in a jail or other correctional facility may not be ordered except in cases of actual emergency when no other secure facility is accessible, and then only for a period of not more than twenty-four hours and under close supervision.

4. Immediately upon being taken into custody, the person must be advised of the purpose of custody, of the intended uses and possible effects of any evaluation that the person undergoes, and of the person's rights to counsel and to a preliminary or treatment hearing.
5. Upon arrival at a facility the peace officer, physician, psychiatrist, psychologist, or mental health professional who conveyed the person or who caused the person to be conveyed shall complete an application for evaluation and shall deliver a detailed written report from the peace officer, physician, psychiatrist, psychologist, or the mental health professional who caused the person to be conveyed. The written report must state the circumstances under which the person was taken into custody. The report must allege in detail the overt act that constituted the basis for the beliefs that the individual is a person requiring treatment and that, because of that person's condition, there exists a serious risk of harm to that person, another person, or property if the person is not immediately detained.

SECTION 7. AMENDMENT. Section 25-03.1-34 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-34. Transfer of patients.

1. The superintendent or director of a treatment facility may transfer, or authorize the transfer of, an involuntary patient from a hospital to another facility if the superintendent or director determines that it would be consistent with the medical needs of the patient to do so. Due consideration must be given to the relationship of the patient to family, legal guardian, or friends, so as to maintain relationships and encourage visits beneficial to the patient. Whenever any treatment facility licensed by any state for the care and treatment of mentally ill or chemically dependent persons agrees with ~~a parent, a spouse, a brother, a sister, a child of legal age, the patient or patient's guardian or any patient~~ to accept the patient for treatment, the superintendent or director of the treatment facility shall release the patient to the other facility.
2. Upon receipt of notice from an agency of the United States that facilities are available for the care or treatment of any individual ordered hospitalized who is eligible for care or treatment in a treatment facility of that agency, the superintendent or director of the treatment facility may cause the individual's transfer to that agency of the United States for treatment. No person may be transferred to any agency of the United States if the person is confined pursuant to conviction of any felony or misdemeanor or the person has been acquitted of the charge solely on the ground of mental illness unless the court originally ordering confinement of the person enters an order for transfer after appropriate motion and hearing. Any person transferred under this section to an agency of the United States is deemed committed to that agency under the original order of treatment.
3. No facility may transfer a patient to another hospital or agency without first notifying the patient and the patient's legal guardian, spouse, or next of kin, if known, or a chosen friend of the patient and the court that ordered treatment. The patient must be given an opportunity to protest the transfer and to receive a hearing on the protest. The patient's

objection to the transfer must be presented to the court where the facility is located or to a representative of the facility within seven days after the notice of transfer was received. If the objection is presented to a representative of the facility, the representative shall transmit it to the court forthwith. The court shall set a hearing date which must be within fourteen days of the date of receipt of the objection. If an objection has not been filed or the patient consents to a transfer, the court may enter an ex parte order authorizing transfer.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 240

HOUSE BILL NO. 1078

(Education Committee)

(At the request of the Superintendent of Public Instruction)

AN ACT to create and enact a new subsection to section 25-06-02 of the North Dakota Century Code, relating to the facilitation of acquisition of instructional materials in alternate formats to students with print disabilities; to amend and reenact sections 25-06-01 and 25-06-01.1 of the North Dakota Century Code, relating to the facilitation of acquisition of instructional materials in alternate formats to students with print disabilities; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-06-01 of the North Dakota Century Code is amended and reenacted as follows:

25-06-01. North Dakota vision services - school for the blind - Maintained - Location. There must be maintained at Grand Forks, in Grand Forks County, a statewide service, resource, and referral center for the education and training of all residents of this state who are blind or have a visual impairment and to serve as the national instructional materials access center authorized user for the purpose of facilitating access to and conversion of accessible instructional materials in alternate formats for use by blind individuals, individuals with visual impairment, and students with other print disabilities, which must be known as the North Dakota vision services - school for the blind.

SECTION 2. AMENDMENT. Section 25-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-06-01.1. Definitions. For purposes of this chapter; ~~an~~:

1. An individual who is blind means an individual who is totally blind or whose central visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than twenty degrees; ~~and an~~
2. An individual with a visual impairment means an individual with an impairment in vision which, even with correction, adversely affects the individual's functional ability; and
3. A student with print disabilities means a student enrolled in elementary or secondary school who has an individualized education program, which includes documentation of either an inability to read or use standard printed material as a result of physical limitations or a reading disability resulting from an organic dysfunction that has been certified by competent authority to be of sufficient severity to prevent reading of printed material in a normal manner.

SECTION 3. A new subsection to section 25-06-02 of the North Dakota Century Code is created and enacted as follows:

Serve as the national instructional materials access center authorized user for the purpose of facilitating access to and conversion of accessible instructional materials in alternate formats for use by blind individuals, individuals with visual impairment, and students with other print disabilities.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,554, or so much of the sum as may be necessary, to the North Dakota vision services - school for the blind for the purpose of serving as the national instructional materials accessibility center authorized user to facilitate access to and conversion of accessible instructional materials in alternate formats for the biennium beginning July 1, 2009, and ending June 30, 2011.

Approved March 19, 2009

Filed March 24, 2009

CHAPTER 241

SENATE BILL NO. 2211

(Senators Nelson, Lyson, Oehlke)
(Representatives Hawken, Pinkerton, Potter)

AN ACT to create and enact a new section to chapter 25-13 of the North Dakota Century Code, relating to killing or injuring a service animal; to amend and reenact sections 25-13-01.1, 25-13-02, 25-13-02.1, 25-13-03, 25-13-04, and 25-13-05 of the North Dakota Century Code, relating to service animals; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-13-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-13-01.1. Definitions. For purposes of this chapter:

1. "Assistance dog" includes a dog that has been specially trained to assist an individual with a disability. The term includes guide dogs that guide individuals who are legally blind; hearing dogs that alert individuals who are hard of hearing to specific sounds; and service dogs for individuals with disabilities other than blindness or deafness. The term does not include a dog that is not trained to mitigate an individual's disability, but the presence of which is to provide for the comfort, protection, or personal defense of an individual.
2. "Service dogs" includes dogs "service animal" means any guide dog, signal dog, or other animal trained to do work, perform a variety of physical tasks, including pulling or provide assistance for the benefit of an individual with a disability. The term includes an animal trained to provide assistance or protection services to an individual with a disability, pull a wheelchair, lending lend balance support, retrieving retrieve dropped objects, and providing or provide assistance in a medical crisis.

SECTION 2. AMENDMENT. Section 25-13-02 of the North Dakota Century Code is amended and reenacted as follows:

25-13-02. Individual with a disability - ~~Assistance dog~~ Service animal - Admission to public places. An individual with a disability is entitled to be accompanied by ~~an assistance dog~~ a service animal in places of public accommodations, common carriers, facilities of a health care provider, and all places to which the public is generally invited, without being required to pay an extra charge for the ~~assistance dog animal~~; provided, that the individual is liable for any damage done to the premises or facility by the ~~assistance dog animal~~.

SECTION 3. AMENDMENT. Section 25-13-02.1 of the North Dakota Century Code is amended and reenacted as follows:

25-13-02.1. Trainer and assistance dog a service animal in training - Admission to public places.

1. A trainer with ~~an assistance dog~~ a service animal in training may enter any place of public accommodation, common carrier, facility of a health care provider, and any place to which the public is generally invited, without being required to pay an extra charge for the ~~assistance dog~~ service animal in training, provided:
 - a. The trainer notifies an onsite manager that ~~an assistance dog a~~ service animal in training is being brought onto the premises;
 - b. The trainer wears a photo identification card issued by a nationally recognized ~~dog~~ service animal training program; and
 - c. The trainer is liable for any damage done to the premises or facility by the ~~assistance dog~~ service animal in training.
2. Upon receiving notice as provided in subsection 1, the onsite manager may not deny admission to the trainer and the ~~assistance dog~~ service animal in training without good cause.

SECTION 4. AMENDMENT. Section 25-13-03 of the North Dakota Century Code is amended and reenacted as follows:

25-13-03. Driver of motor vehicle - Precaution - Individual with assistance dog service animal. If the driver of a motor vehicle approaches an individual who is blind or visually impaired and who is carrying a cane predominately white or metallic in color, with or without a red tip, or who is accompanied by ~~an assistance dog a service animal~~, the driver shall take all reasonable precautions to avoid injury to the individual and the ~~assistance dog~~ service animal. Any driver who fails to take reasonable precautions is liable to the individual for any injury caused. An individual who is blind or visually impaired and not carrying a cane or an individual with a disability who is not accompanied by ~~an assistance dog a service animal~~ has all of the rights and privileges conferred by law upon other individuals. The failure of an individual who is blind or visually impaired to carry a cane or the failure of an individual with a disability to be accompanied by ~~an assistance dog a~~ service animal is not by itself evidence of fault.

SECTION 5. AMENDMENT. Section 25-13-04 of the North Dakota Century Code is amended and reenacted as follows:

25-13-04. Penalty for interfering or denying use of facilities. Any person who denies or interferes with admittance to or enjoyment of the public places or facilities enumerated in section 25-13-02 or otherwise interferes with the rights of an individual who is blind or visually impaired, or with the rights of an individual who is accompanied by ~~an assistance dog a service animal~~, is guilty of a class A misdemeanor. This section does not apply to a denial of admission under section 25-13-02.1.

SECTION 6. A new section to chapter 25-13 of the North Dakota Century Code is created and enacted as follows:

Killing or injury of service animal - Penalty.

1. A person is guilty of a class C felony and is subject to a civil penalty of up to ten thousand dollars if that person willfully and unjustifiably kills, shoots, tortures, torments, beats, kicks, strikes, mutilates, disables, or otherwise injures a service animal.
2. A person is guilty of a class A misdemeanor and is subject to a civil penalty of up to five thousand dollars if that person willfully:
 - a. Harasses, taunts, or provokes a service animal; or
 - b. Interferes with a service animal while the animal is working.
3. This section does not apply to a veterinarian who terminates the life of a service animal to relieve the animal of undue suffering and pain.

SECTION 7. AMENDMENT. Section 25-13-05 of the North Dakota Century Code is amended and reenacted as follows:

25-13-05. State employment of individuals who are blind and or otherwise disabled. It is the policy of this state that ~~the~~ individuals who are blind, the visually handicapped, and the impaired, or otherwise physically disabled shall be employed in the state service, the service of the political subdivisions of the state, the public schools, and all other employment supported in whole or in part by public funds on the same terms and conditions as ~~the able-bodied~~ individuals who are not disabled, unless the particular disability prevents the performance of the work involved.

Approved April 8, 2009
Filed April 9, 2009