

**SENATE BILL NO. 2257**

Introduced by

Senators Cook, Kilzer, Axness

Representatives Devlin, Porter, Toman

1 A BILL ~~for an Act to amend and reenact section 25-03.3-17 and 25-03.3-18 of the North Dakota~~  
2 ~~Century Code, relating to postcommitment procedures in cases of civil commitment of sexually~~  
3 ~~dangerous individuals.~~ for an Act to provide for a legislative management study of the state  
4 hospital's program for the evaluation and treatment of civilly committed sexually dangerous  
5 individuals.

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

7 ~~— **SECTION 1. AMENDMENT.** Section 25-03.3-17 of the North Dakota Century Code is~~  
8 ~~amended and reenacted as follows:~~

9 ~~— **25-03.3-17. Postcommitment proceeding, discharge, and further disposition.**~~

10 ~~— 1. A committed individual must remain in the care, custody, and control of the executive~~  
11 ~~director until, in the opinion of the executive director, the individual is safe to be at~~  
12 ~~large.~~

13 ~~— 2. Each committed individual must have an examination of that individual's mental~~  
14 ~~condition at least once a year every three years. A report regarding the examination~~  
15 ~~must be provided to the court that committed the individual. At the time of the annual~~  
16 ~~examination, the committed individual has the right to have an expert examine the~~  
17 ~~individual, and, upon the request of an indigent committed individual, the court shall~~  
18 ~~appoint a qualified expert to examine the committed individual and report to the court.~~  
19 ~~The department of human services shall compensate a qualified expert appointed by~~  
20 ~~the court in a reasonable amount based on time and expenses. That expert must have~~  
21 ~~reasonable access to the committed individual and to all records relating to the~~  
22 ~~committed individual, including confidential records.~~

23 ~~— 3. If a committed individual has been committed to an out-of-state facility by the~~  
24 ~~executive director for purposes of treatment, an expert from that state may be~~

1 appointed by the court as a qualified expert for an indigent committed individual for  
2 any postcommitment proceeding.

3 ~~4. After any report pursuant to this section is provided to the court, the court may order  
4 further examination and investigation of the committed individual as the court  
5 considers necessary. The court may set the matter for a hearing. At the hearing, the  
6 committed individual is entitled to be present and to the benefit of the protections  
7 afforded at the commitment proceeding. The state's attorney shall represent the state  
8 at the hearing. After the hearing, the court shall determine whether the committed  
9 individual is to be discharged or to be retained as a sexually dangerous individual in  
10 the care, custody, and control of the executive director.~~

11 ~~5. The executive director may only discharge a sexually dangerous individual from  
12 commitment pursuant to a court order. The executive director may petition the  
13 committing court at any time for the discharge of the committed individual. The  
14 executive director shall give the state's attorney notice of any petition for discharge the  
15 executive director files with the court. Before the petition is granted, the state's  
16 attorney has the right to be heard by the court on the petition. The state's attorney may  
17 waive this right.~~

18 ~~6. If the executive director moves a committed individual from a placement in the  
19 community to a placement in a secure treatment facility that is more restrictive, the  
20 committed individual may challenge the move at a hearing to be held within thirty days  
21 after the move in accordance with procedures established by the department of  
22 human services.~~

23 ~~**SECTION 2. AMENDMENT.** Section 25-03.3-18 of the North Dakota Century Code is  
24 amended and reenacted as follows:~~

25 ~~**25-03.3-18. Petition for discharge -- Notice.**~~

26 ~~1. AnnuallyAt least once every three years, the executive director shall provide the  
27 committed individual with written notice that the individual has a right to petition the  
28 court for discharge. The notice must explain to the committed person when the  
29 committed person has a right to a hearing on the petition. The notice must inform the  
30 committed person of the rights this chapter affords the committed person at a  
31 discharge hearing. The executive director shall forward a copy of the notice to the~~

1 committing court. If the committed individual is an individual with an intellectual  
2 disability, the executive director shall also provide the written notice to the individual's  
3 attorney, guardian, and guardian ad litem, if any.

4 ~~2. If the committed individual files a petition for discharge and has not had a hearing  
5 pursuant to section 25-03.3-17 or this section during the preceding twelvethirty-six  
6 months, the committed individual has a right to a hearing on the petition.~~

7 ~~3. At the hearing on the petition for discharge, the committed individual is entitled to be  
8 present and to the benefit of the protections afforded at the commitment proceeding.  
9 The state's attorney shall represent the state and may have the committed individual  
10 evaluated by experts chosen by the state. The committed individual is entitled to have  
11 an expert of the committed individual's choice conduct an evaluation. The court shall  
12 appoint a qualified expert if the committed individual is indigent and requests an  
13 appointment. The department of human services shall compensate a qualified expert  
14 appointed by the court in a reasonable amount based on time and expenses. That  
15 expert must have reasonable access to the committed individual and to all records  
16 relating to the committed individual, including confidential records.~~

17 ~~4. At any hearing held pursuant to a petition for discharge, the burden of proof is on  
18 the state to show by clear and convincing evidence that the committed individual  
19 remains a sexually dangerous individual.~~

20 **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATE HOSPITAL'S PROGRAM**  
21 **FOR CIVILLY COMMITTED SEXUALLY DANGEROUS INDIVIDUALS.** During the 2013-14  
22 interim the legislative management shall consider studying the state hospital's program for the  
23 evaluation and treatment of civilly committed sexually dangerous individuals. The study must  
24 include a review of the program's history, progress, costs, policies and procedures, and the  
25 impact of the program on the families of individuals who are civilly committed to the program.  
26 The legislative management shall report its findings and recommendations, together with any  
27 legislation required to implement the recommendations, to the sixty-fourth legislative assembly.