

HOUSE BILL NO. 1116

Introduced by

Judiciary Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact section 12.1-04-06 of the North Dakota Century Code,
2 relating to an evaluation to determine a defendant's fitness to proceed.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-04-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-04-06. Examination - Temporary commitment.**

7 Whenever there is reason to doubt the defendant's fitness to proceed, the court may order
8 the detention of the defendant for the purpose of an examination by a psychiatrist or a licensed
9 psychologist. The detention must be in the least restrictive appropriate setting, including the
10 state hospital, the developmental center at westwood park, Grafton, or other suitable facility for
11 a reasonable period, not to exceed thirty days, for such examination. In lieu of detention, the
12 court may allow the defendant to remain in the defendant's present residential setting or other
13 suitable residential setting for the purpose of evaluation by a ~~human service center or other~~
14 ~~suitable facility or personnel, but not a human service center,~~ subject to any reasonable
15 limitation the court may impose. A human service center may not be considered a suitable
16 facility and may not be considered suitable personnel under this section unless the court is
17 aware that an inquiry has been made prior to the court ordering the evaluation to ensure that
18 appropriate resources exist at the human service center being ordered to conduct the
19 evaluation. The court, by subsequent order and for good cause shown, may extend the
20 detention for a period not to exceed thirty additional days. While the defendant is detained, the
21 defendant's legal counsel, family, and others necessary to assist in the defendant's case shall
22 have reasonable opportunity to examine and confer with the defendant.