

Sixty-third  
Legislative Assembly  
of North Dakota

ENGROSSED 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, subject to any reasonable limitation the court may impose. A  
15 human service center may not be considered a suitable facility and may not be considered  
16 suitable personnel under this section unless the court is aware that an inquiry has been made  
17 prior to the court ordering the evaluation to ensure that appropriate resources exist at the  
18 human service center being ordered to conduct the evaluation. The court, by subsequent order  
19 and for good cause shown, may extend the detention for a period not to exceed thirty additional  
20 days. While the defendant is detained, the defendant's legal counsel, family, and others  
21 necessary to assist in the defendant's case shall have reasonable opportunity to examine and  
22 confer with the defendant.