

MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND, AND DEAF

CHAPTER 323

SENATE BILL NO. 2362
(Waldera, Maixner)

HOSPITALIZATION ALTERNATIVES

AN ACT to amend and reenact section 25-03.1-21 of the North Dakota Century Code, relating to alternatives to hospitalization for persons requiring treatment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.1-21 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-21. Alternatives to hospitalization. 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 himself or others, the court shall order the respondent to receive whatever treatment other than hospitalization is appropriate for a period of ninety days. If, during this period, the court or the county court of a different county in which the respondent is presently located learns that the respondent is not complying with the order, or that the alternative treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself or others, the court may without a hearing, or the county court of a different county in which the respondent is presently located may with a hearing, and based upon the record and other available information:

1. Consider other alternatives to hospitalization, modify ~~its~~ 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

2. Enter a new order directing that the individual be hospitalized ~~for the remainder of the ninety-day period~~ until discharged from the hospital pursuant to section 25-03.1-30. If the individual refuses to comply with this hospitalization order, the court or the county court of a different county in which the respondent is presently located may direct a peace officer to take the individual into protective custody and transport him to a treatment facility.

If the respondent does not comply with the individualized treatment plan contained in an order for alternative treatment, the department of human services or the physician who cares for the respondent may petition the court or the county court of a different county in which the respondent is presently located to direct the respondent to comply with the individualized treatment plan. The court that is petitioned shall set a hearing date which must be within one hundred twenty hours, excluding weekends and holidays, of the date the court received the petition. If at the hearing the court determines the respondent is not complying with the order, the court may direct the respondent to comply with the treatment plan or other appropriate treatment, including another program of alternative treatment or hospitalization for the remainder of the ninety-day period.

If a peace officer, physician, psychiatrist, clinical psychologist, or any mental health professional reasonably believes that the respondent is not complying with the individualized treatment plan contained in an order for alternative treatment or that the alternative treatment is not sufficient to prevent harm or injuries to the respondent or others, and that consideration of time and safety do not allow intervention by a court, the designated mental health 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, 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 record and other available information:

1. 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

2. Enter a new order directing that the respondent remain hospitalized until discharged from the hospital pursuant to section 25-03.1-30.

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 ~~facility~~ individual is located.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 324

HOUSE BILL NO. 1489
(Representative Wentz)
(Senator Stenehjem)

COMMITMENT APPEALS

AN ACT to amend and reenact section 25-03.1-29 of the North Dakota Century Code, relating to anonymity of respondents in mental health commitment hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.1-29 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-29. Appeal. The respondent shall have the right to an expedited appeal from an order of involuntary commitment or alternative treatment, a continuing treatment order, an order denying a petition for discharge, or an order of transfer. Upon entry of an appealable order, the court shall notify the respondent of the right of appeal and the right to counsel. The notice of appeal must be filed within thirty days after the order has been entered. Such appeal shall be to the supreme court and the hearing shall be commenced within fourteen days of filing of the notice of appeal. The hearing shall be limited to a review of the procedures, findings, and conclusions of the lower court. The name of the respondent shall not appear on the record on appeal.

Pending appeal, the order appealed from shall remain in effect, unless the supreme court determines otherwise. The respondent shall not be denied the opportunity to be present at the appeal hearing, and the court conducting the appeal may issue such interim order as will assure this opportunity to the respondent while protecting the interest sought to be served by the order appealed from.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 325

SENATE BILL NO. 2068
(Legislative Council)
(Interim Legislative Audit and Fiscal Review Committee)

STATE INSTITUTION CARE EXPENSES

AN ACT to create and enact two new sections to chapter 25-04 of the North Dakota Century Code, relating to liability for care and treatment of nonresident patients at and reduction or writeoff of accounts receivable by the Grafton state school; and to amend and reenact section 25-04-04, subsection 3 of section 25-04-05, and sections 25-04-14, 25-04-15, 25-16-13, 50-06.3-03, 50-06.3-04, and 50-06.3-09 of the North Dakota Century Code, relating to payment of expenses for care and treatment of patients at the Grafton state school and the state hospital.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-04. Who may receive benefits of state school. Subject to the provisions of this chapter ~~25-09~~ and to such rules and ~~regulations~~ as may be made by the director, the benefits of the state school may be received by persons who are residents of this state and who are:

1. Mentally deficient and, in the opinion of the superintendent of the state school, are of suitable age and capacity to receive instruction in ~~such~~ the school and whose deficiencies prevent them from receiving proper training and instruction in the public schools; or
2. Mentally deficient, and who cannot be properly cared for in their homes or other available facilities.

SECTION 2. AMENDMENT. Subsection 3 of section 25-04-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Care and treatment at the state school ~~shall~~ must be provided without charge to anyone under twenty-one years of age who is qualified for admission pursuant to this

chapter. Residents not more than twenty-one years of age admitted to the state school ~~shall be~~ are entitled to transportation as provided by rules and ~~regulations~~ of the department of public instruction. The rules and ~~regulations of the department of public instruction shall~~ have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident ~~shall~~ must be reimbursed by the state special education fund for not more than the number of round trips home per year provided for in the individualized education program at a rate not to exceed that paid state officials. Persons over twenty-one years of age who are qualified for admission pursuant to this chapter ~~shall be~~ are responsible for expenses ~~incurred through charged for~~ care and treatment at the state school in the manner provided by this chapter 25-09.

SECTION 3. A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Liability for care and treatment of nonresident patients. Nonresident patients at the Grafton state school and nonresident responsible relatives of patients are liable for the chargeable costs of care and treatment at the state school.

SECTION 4. AMENDMENT. Section 25-04-14 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-14. Expenses chargeable against patient or patient's estate - Filing claims. Expenses for care and treatment of each patient over twenty-one years of age at the Grafton state school ~~shall~~ must, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health and charges may be adjusted in accordance with the patient's ability to pay which must include an estimate of potential future receipts including amounts from estates. The supervising department shall, ~~if possible,~~ recover ~~monthly~~ from the patient or from a discharged patient expenses chargeable for care and treatment. If any patient is receiving social security benefits or is a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veterans' administration, ~~such~~ the expenses are a current claim against the patient and may be recovered monthly by the supervising department except that any amount required by the payor of ~~such~~ the benefits to be paid directly to the patient ~~shall~~ must, upon approval of the director of institutions, be credited to the patient's personal account from any money thus received.

SECTION 5. AMENDMENT. Section 25-04-15 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-15. Expenses chargeable against guardianship estate of patient - Restrictions. The expenses ~~incurred~~ chargeable by the state for the care and treatment of any patient over twenty-one years of age at the Grafton state school shall must be charged against the guardianship estate of such patient, if ~~he~~ the patient has such an estate, subject to the following restrictions:

1. No part of ~~such~~ the estate shall may be taken for such purpose if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of ~~such~~ the estate would result in undue hardship to ~~such~~ those dependents.
2. No real property belonging to ~~such~~ the estate shall may be sold during the lifetime of the patient except for the maintenance and support of ~~his or her~~ the patient's dependents, unless it is shown that the sale of ~~such~~ the property will not result in undue hardship to ~~such~~ those dependents, and ~~in either such event,~~ it shall may be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the director of institutions.
3. No personal property belonging to ~~such~~ the estate shall may be sold within five years from the date upon which the patient was sent to the state school unless ~~such~~ the property is ordered sold by the county court having jurisdiction of the estate for the reason that ~~such~~ the property is likely to deteriorate in value during the time herein specified.
4. No claim ~~shall~~ may be made to recover from the estate of a former resident of the state school who has left the state school and married, and leaves a spouse or issue dependent upon such estate.

SECTION 6. A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Reduction or writeoff of accounts - Report to legislative audit and fiscal review committee. The supervising department may authorize the reduction or writeoff of a patient's past due account from the Grafton state school's financial records upon determining that the account is not collectible. The supervising department, thirty days after the close of each fiscal year, shall present a detailed report to the legislative audit and fiscal review committee on the status of accounts receivable for that fiscal year. The report must include:

1. An aging by patient classification of accounts remaining unpaid.

2. The amounts by patient classification by which accounts were reduced or written off for reasons other than payment during that fiscal year.

SECTION 7. AMENDMENT. Section 25-16-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-13. Expenses chargeable against patient, his patient's estate, or responsible relatives. ~~The provisions of this~~ This chapter shall in no way does not relieve the responsibility of the patient, his the patient's estate, or responsible relatives of the expenses for care and treatment as is provided in chapter 25-09, and all the 25-04 or 50-06.3. The provisions of chapter 25-09 and other statutes 25-04 or 50-06.3 applicable to the expenses of care and treatment of patients shall apply to this chapter.

SECTION 8. AMENDMENT. Section 50-06.3-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06.3-03. Fees and expenses chargeable against patients. Expenses for care and treatment of each patient at the state hospital must be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health and charges may be adjusted in accordance with the patient's or other responsible party's ability to pay which must include an estimate of potential future receipts including amounts from estates. The department shall recover monthly expenses charged for care and treatment. The department shall may not recover expenses under this chapter for care and treatment of a patient transferred to the state hospital from a jail or regional corrections center. If any patient is receiving social security benefits or is a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veteran's veterans' administration, the expenses are a current claim against the patient and may be recovered monthly by the department except that any amount required by the payor of the benefits to be paid directly to the patient shall must be credited to the patient's personal account from any money thus received.

SECTION 9. AMENDMENT. Section 50-06.3-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06.3-04. Liability for payment. The recipient, patient, recipient's or patient's estate, and recipient's or patient's spouse are liable for fees and expenses for services rendered by the department, through its regional human service centers, and for care and treatment expenses charged at the state hospital. The parents of a recipient or patient are liable for fees and expenses incurred responsible for services, care, and treatment provided prior to the eighteenth birthday of the recipient or patient.

SECTION 10. AMENDMENT. Section 50-06.3-09 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06.3-09. Expenses chargeable against guardianship estate of patient - Restrictions. The expenses ~~incurred~~ chargeable by the state for the care and treatment of any patient at the state hospital ~~shall~~ must be charged against the guardianship estate of the patient, if the patient has an estate, subject to the following restrictions:

1. No part of the estate ~~shall~~ may be taken if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of the estate would result in undue hardship to those dependents.
2. No real property belonging to the estate ~~shall~~ may be sold during the lifetime of the patient except for the maintenance and support of the patient's dependents, unless it is shown that the sale of the property will not result in undue hardship to those dependents, and it may be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the department.
3. No personal property belonging to the estate may be sold within five years from the date upon which the patient was sent to the institution unless the property is ordered sold by the county court having jurisdiction of the estate for the reason that the property is likely to deteriorate in value during the time herein specified.

If any real or personal property is sold pursuant to ~~the provisions~~ of this section, the county court shall order the proceeds of the sale to be invested safely for the benefit of the patient or to be used for the support and maintenance of the patient's dependents, or used to pay the costs of care and treatment of the patient.

Approved April 10, 1987
Filed April 14, 1987

CHAPTER 326

SENATE BILL NO. 2548
(Heigaard)

(Approved by the Committee on Delayed Bills)

STATE SCHOOL SUPERINTENDENT AS GUARDIAN

AN ACT to amend and reenact subsection 1 of section 25-04-13.1 of the North Dakota Century Code, and section 16 of chapter 313 of the 1983 Session Laws of North Dakota, relating to the superintendent of the Grafton state school acting as guardian of any resident.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 25-04-13.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The superintendent of Grafton state school shall continue to be guardian until ~~July 1, 1987~~ February 1, 1988, of any resident of Grafton state school for whom he ~~is~~ was guardian on July 1, 1985, except as otherwise provided by court order, except where the resident is discharged from Grafton, or except as otherwise provided by this section. The superintendent may renounce in writing his guardianship of any resident between July 1, 1985, and ~~July 1, 1987~~ February 1, 1988. The resident will not have a guardianship upon renunciation by the superintendent. The guardianship of a minor for whom there has been no court-ordered alternate guardian appointed will revert back to the minor's parents on renunciation by the superintendent or on ~~July 1, 1987~~ February 1, 1988. The superintendent shall provide written notice of any intended renunciation to the resident and the resident's parent, advocate, and case manager thirty days before the effective date of the renunciation, or on ~~June 1, 1987~~ January 1, 1988, whichever date occurs first.

SECTION 2. AMENDMENT. Section 16 of chapter 313 of the 1983 Session Laws of North Dakota as amended by section 7 of chapter 369 of the 1985 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 16. EFFECTIVE DATE. Section 15 shall be effective on ~~July 1, 1987~~ February 1, 1988.

Approved April 14, 1987
Filed April 15, 1987

CHAPTER 327

SENATE BILL NO. 2125
(Committee on State and Federal Government)
(At the request of the Director of Institutions)

SCHOOL FOR THE BLIND TRANSPORTATION

AN ACT to amend and reenact section 25-06-04 of the North Dakota Century Code, relating to transportation costs for students at the school for the blind.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-06-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-06-04. Qualifications for admission to school for the blind - Residents of state entitled to free education. Applicants for admission to the school for the blind must be blind or partially blind and unable to make suitable progress in the public schools of the state. The superintendent, with the approval of the director, may determine the age required for admission. The superintendent shall furnish application blanks upon request, and no person shall be admitted to the institution until the application giving such information as the director may require has been returned to and approved by the superintendent of the school for the blind. An applicant admitted to the school for the blind shall be entitled to furnished transportation by the school as provided by rules and regulations of the department of public instruction. The rules and regulations of the department of public instruction shall have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident shall be reimbursed by the state special education fund for not more than the number of round trips home per year provided for in the student's individualized education program at a the most economical rate not to exceed that paid state officials possible, and yet meet the student's needs. Each such applicant who is a resident of this state and who, because of his handicap, is unable to receive an education in the public schools, shall be entitled to receive an education in the school for the blind at the expense of the state.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 328

SENATE BILL NO. 2124
(Committee on State and Federal Government)
(At the request of the Director of Institutions)

SCHOOL FOR THE DEAF TRANSPORTATION

AN ACT to amend and reenact section 25-07-04 of the North Dakota Century Code, relating to transportation costs for students at the school for the deaf.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-07-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-04. Qualifications for admission to school for deaf - Residents of state entitled to free education. In order to be admitted as a pupil in the school for the deaf, an applicant's hearing must be impaired to such extent that he cannot make suitable progress in the public schools of the state. The superintendent, with the approval of the director, may determine the age required for admission. The superintendent shall furnish application blanks upon request, and no person shall be admitted to the institution until the application giving such information as the director of institutions may require has been returned to and approved by the superintendent. An applicant admitted to the school shall be entitled to furnished transportation by the school as provided by rules and regulations of the department of public instruction. The rules and regulations of the department of public instruction shall have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident shall be reimbursed by the state special education fund for not more than the number of round trips home per year provided for in the student's individualized education program at a the most economical rate not to exceed that paid state officials possible, and yet meet the student's needs. Each such applicant who is a resident of this state and who, because of his handicap, is unable to receive an education in the public schools, shall be entitled to receive an education in the school for the deaf at the expense of the state.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 329

HOUSE BILL NO. 1421
(Representatives Oban, Wentz)
(Senators Waldera, Lips)

WORK ACTIVITY CENTER BIDS

AN ACT to require the office of management and budget and the state highway department to award contracts for the purchase of highway grade stakes to facilities for the physically handicapped, developmentally disabled, and chronically mentally ill; and to amend and reenact sections 24-02-19 and 54-44.4-05 of the North Dakota Century Code, relating to competitive bidding procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. Work activity center - Definition. As used in this Act "work activity center" means a facility located in the state and operated by a nonprofit corporation organized for the primary purpose of employing and providing rehabilitative activities for physically handicapped, developmentally disabled, and chronically mentally ill persons.

SECTION 2. Direct bidding with work activity centers for highway grade stakes. Unless no work activity center bids on the contract, the office of management and budget or the state highway department, whichever may be authorized to purchase highway grade stakes, shall award any contract for the purchase of highway grade stakes to work activity centers. The office of management and budget or the state highway department shall request bids from work activity centers and shall award any contract for the purchase of highway grade stakes on the basis of these factors:

1. Whether the product contracted for is supplied by the work activity center at a fair market price.
2. Whether the product to be supplied by the work activity center meets the specifications of the state highway department.
3. The ability, capacity, and skill of the work activity center to perform the contract required.

4. The character, integrity, reputation, judgment, experience, and efficiency of the work activity center.
5. Whether the work activity center can perform the contract within the time specified.
6. The quality of performance of previous contracts negotiated with the work activity center.
7. The previous and existing compliance by the work activity center with laws relating to the contract.

SECTION 3. Contract requirement. Any contract awarded pursuant to this Act must be in writing and must be made available by the purchasing party to any person upon request. The contract must include the purchase price, the quantity of product purchased, and the time period for which the product will be provided.

SECTION 4. AMENDMENT. Section 24-02-19 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-19. Request for bids - How advertised. Any request for bids for construction work or the improvement of any state highway, or any structure in excess of the amount specified in section 24-02-17, shall be advertised by publication once a week for a period of three successive weeks, prior to the opening of such bids, in the official newspaper of the county in which the project is located. Such advertisement shall state where the bidder may inspect the plans and specifications, with whom bids shall be filed, and the time and place where bids shall be opened. Such place shall be the office of the department. All requests for bids for the purchase of equipment, materials, and supplies, exclusive of repairs to equipment and except as provided in section 2 of this Act in excess of the sum of two thousand dollars shall be advertised in the official newspaper of Burleigh County once a week for a period of two successive weeks prior to the opening of such bids.

SECTION 5. AMENDMENT. Section 54-44.4-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.4-05. Competitive bidding on purchases. Except as otherwise provided in section 44-08-01 and section 2 of this Act, purchasing contracts shall be awarded to the lowest responsible bidder considering conformity with specifications, terms of delivery, and quality and serviceability. The office of management and budget may reject any or all bids or negotiate for a lower price with a successful bidder. The office of management and budget shall publish at least once per year in each official county newspaper in the state the procedures to be followed to sell goods and materials to state agencies, departments, and institutions. Each bid received, with the name of the bidder, shall be recorded.

Approved March 20, 1987
Filed March 23, 1987