

SENATE BILL NO.

Introduced by

Senator Mathern

1 A BILL for an Act to amend and reenact subsection 7 of section 25-03.1-02, section 25-03.1-11,
2 and subsection 1 of section 25-03.1-25 of the North Dakota Century Code, relating to
3 emergency procedures for mental health commitments; and to provide for a legislative council
4 study.

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

6 **SECTION 1. AMENDMENT.** Subsection 7 of section 25-03.1-02 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 7. "Expert examiner" means a licensed physician, psychiatrist, psychologist trained in
9 a clinical program, or licensed addiction counselor appointed by the court to
10 examine the respondent and to provide an evaluation of whether the respondent is
11 a person requiring treatment. ~~An evaluation of a respondent's physical condition~~
12 ~~may be made only by a licensed physician or psychiatrist, an evaluation of a~~
13 ~~respondent's mental status may be made only by a psychiatrist or psychologist~~
14 ~~trained in a clinical program, and an evaluation of whether the respondent is~~
15 ~~chemically dependent may be made only by a licensed physician, licensed~~
16 ~~addiction counselor, or licensed psychologist trained in a clinical program.~~

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

19 **25-03.1-11. Involuntary treatment - Examination - Report.**

20 1. The respondent must be examined within a reasonable time by an expert examiner
21 as ordered by the court. If the respondent is taken into custody under the
22 emergency treatment provisions of this chapter, the examination must be
23 conducted within twenty-four hours, exclusive of holidays, of custody. Any expert
24 examiner conducting an examination under this section may consult with or

1 request participation in the examination by any qualified mental health professional
2 and may include with the written examination report any findings or observations
3 by that mental health professional. This examination report, and that of the
4 independent examiner, if one has been requested, must be filed with the court.

5 The report must contain:

- 6 a. Evaluations of the respondent's physical condition and mental status.
- 7 b. A conclusion as to whether the respondent is a person requiring treatment,
8 with a clear explanation of how that conclusion was derived from the
9 evaluation.
- 10 c. If the report concludes that the respondent is a person requiring treatment, a
11 list of available forms of care and treatment that may serve as alternatives to
12 involuntary hospitalization.
- 13 d. The signature of the examiner who prepared the report.

14 2. For purposes of the examination conducted pursuant to this section:

- 15 a. An evaluation of a respondent's physical condition may be made only by a
16 licensed physician or psychiatrist.
- 17 b. An evaluation of a respondent's mental status may be made only by a
18 psychiatrist or psychologist trained in a clinical program. If neither a
19 psychiatrist nor psychologist trained in a clinical program is available, the
20 evaluation of a respondent's mental status may be conducted by a licensed
21 physician.
- 22 c. An evaluation of whether the respondent is chemically dependent may be
23 made only by a licensed physician, licensed addiction counselor, or licensed
24 psychologist trained in a clinical program.

25 3. If the expert examiner concludes that the respondent is not a person requiring
26 treatment, the court may without taking any other additional action terminate the
27 proceedings and dismiss the petition. If the expert examiner concludes that the
28 respondent is a person requiring treatment, or makes no conclusion thereon, the
29 court shall set a date for hearing and shall give notice of hearing to the persons
30 designated in section 25-03.1-12. If the respondent is in custody and is alleged to
31 be suffering from mental illness or a combination of mental illness and chemical

1 dependency, the preliminary hearing date must be within four days, exclusive of
2 weekends and holidays, of the date respondent was taken into custody through
3 emergency commitment under section 25-03.1-25 unless a delay or continuance is
4 concurred in by the respondent or unless extended by the magistrate for good
5 cause shown. If a preliminary hearing is not required, the treatment hearing must
6 be held within four days, exclusive of weekends and holidays, of the date the court
7 received the expert examiner's report, not to exceed fourteen days from the time
8 the petition was served.

9 **SECTION 3. AMENDMENT.** Subsection 1 of section 25-03.1-25 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 1. When a peace officer, physician, psychiatrist, psychologist, or mental health
12 professional has reasonable cause to believe that an individual is a person
13 requiring treatment and there exists a serious risk of harm to that person, other
14 persons, or property of an immediate nature that considerations of safety do not
15 allow preliminary intervention by a magistrate, the peace officer, physician,
16 psychiatrist, psychologist, or mental health professional may cause the person to
17 be taken into custody and detained at a treatment facility as provided in
18 subsection 3, and subject to section 25-03.1-26, except that if emergency
19 conditions exist that prevent the immediate conveyance of the individual to a public
20 treatment facility, a private facility that has adequate resources and capacity to
21 hold that individual may hold the individual in anticipation of conveyance to a public
22 treatment facility for up to ~~twenty-three~~ seventy-two hours:

- 23 a. Without conducting an immediate examination required under section
24 25-03.1-26; and
25 b. Without following notice and hearing requirements for a transfer to another
26 treatment facility required under subsection 3 of section 25-03.1-34.

27 **SECTION 4. LEGISLATIVE COUNCIL STUDY - INVOLUNTARY MENTAL HEALTH**
28 **COMMITMENT PROCEDURES.** During the 2009-10 interim, the legislative council shall study
29 the involuntary mental health commitment procedures under North Dakota Century Code
30 Chapter 25-03.1. The study must include an assessment of the availability of psychiatric
31 services in the state. The legislative council shall report its findings and recommendations,

Sixty-first
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- 1 together with any legislation required to implement the recommendations, to the sixty-second
- 2 legislative assembly.