

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.

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

5 **SECTION 1. AMENDMENT.** Section 25-03.3-17 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **25-03.3-17. Postcommitment proceeding, discharge, and further disposition.**

- 8 1. A committed individual must remain in the care, custody, and control of the executive
9 director until, in the opinion of the executive director, the individual is safe to be at
10 large.
- 11 2. Each committed individual must have an examination of that individual's mental
12 condition at least once a ~~year~~every three years. A report regarding the examination
13 must be provided to the court that committed the individual. At the time of the ~~annual~~
14 examination, the committed individual has the right to have an expert examine the
15 individual, and, upon the request of an indigent committed individual, the court shall
16 appoint a qualified expert to examine the committed individual and report to the court.
17 The department of human services shall compensate a qualified expert appointed by
18 the court in a reasonable amount based on time and expenses. That expert must have
19 reasonable access to the committed individual and to all records relating to the
20 committed individual, including confidential records.
- 21 3. If a committed individual has been committed to an out-of-state facility by the
22 executive director for purposes of treatment, an expert from that state may be
23 appointed by the court as a qualified expert for an indigent committed individual for
24 any postcommitment proceeding.

- 1 4. After any report pursuant to this section is provided to the court, the court may order
2 further examination and investigation of the committed individual as the court
3 considers necessary. The court may set the matter for a hearing. At the hearing, the
4 committed individual is entitled to be present and to the benefit of the protections
5 afforded at the commitment proceeding. The state's attorney shall represent the state
6 at the hearing. After the hearing, the court shall determine whether the committed
7 individual is to be discharged or to be retained as a sexually dangerous individual in
8 the care, custody, and control of the executive director.
- 9 5. The executive director may only discharge a sexually dangerous individual from
10 commitment pursuant to a court order. The executive director may petition the
11 committing court at any time for the discharge of the committed individual. The
12 executive director shall give the state's attorney notice of any petition for discharge the
13 executive director files with the court. Before the petition is granted, the state's
14 attorney has the right to be heard by the court on the petition. The state's attorney may
15 waive this right.
- 16 6. If the executive director moves a committed individual from a placement in the
17 community to a placement in a secure treatment facility that is more restrictive, the
18 committed individual may challenge the move at a hearing to be held within thirty days
19 after the move in accordance with procedures established by the department of
20 human services.

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

23 **25-03.3-18. Petition for discharge - Notice.**

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

- 1 disability, the executive director shall also provide the written notice to the individual's
2 attorney, guardian, and guardian ad litem, if any.
- 3 2. If the committed individual files a petition for discharge and has not had a hearing
4 pursuant to section 25-03.3-17 or this section during the preceding ~~twelvethirty-six~~
5 months, the committed individual has a right to a hearing on the petition.
- 6 3. At the hearing on the petition for discharge, the committed individual is entitled to be
7 present and to the benefit of the protections afforded at the commitment proceeding.
8 The state's attorney shall represent the state and may have the committed individual
9 evaluated by experts chosen by the state. The committed individual is entitled to have
10 an expert of the committed individual's choice conduct an evaluation. The court shall
11 appoint a qualified expert if the committed individual is indigent and requests an
12 appointment. The department of human services shall compensate a qualified expert
13 appointed by the court in a reasonable amount based on time and expenses. That
14 expert must have reasonable access to the committed individual and to all records
15 relating to the committed individual, including confidential records.
- 16 4. At any hearing held pursuant to a petition for discharge, the burden of proof is on the
17 state to show by clear and convincing evidence that the committed individual remains
18 a sexually dangerous individual.