

HOUSE BILL NO. 1117

March 17, 2021
11:00 a.m.

Madam Chairwoman and members of the Senate Judiciary
Committee:

My name is Gregory Ian Runge. I am an attorney here in the Bismarck/Mandan area. I have been practicing law for about thirty-two years and have been practicing mental health law under Section 25-03.1 of the North Dakota Century Code for that same amount of time, as well. As a matter of fact my very first case as a licensed attorney was a mental health case.

During this period of time I have represented, on average, fifteen to twenty-five individuals a month on involuntary commitments.

I have come here today to speak in favor of House Bill No. 1117. As you can see, most of Bill No. 1117 pertains to changes in terminology and deleting portions of the commitment statute that were added in the 1990's, but are now moot.

First, some of the changes pertain to exchanging the word "Applicant" to the word "petitioner."

Second, regarding page 3, lines 14-15. There have been, on occasion, times when a respondent refuses to appear in court and in one case, pre-covid, the sheriff's department forced a respondent to appear in court restrained in a wheelchair, both arms handcuffed to each of the arm rests and both legs shackled to the foot rests.

Now, the sheriff's department will no longer force a respondent to appear, leaving the respondent in the hospital. And lately, in ZOOM hearings (covid), a respondent who refuses to appear will just get up and walk out of the ZOOM-room where the respondent is to appear by computer screen. In these cases, I have to make an argument to the court, that by the respondent's actions of leaving the hearing there is an implication that the respondent waived the right to be present at the hearing and then continue on with the hearing.

The section 25-03.1-15 of the North Dakota Century Code

currently reads, "The respondent must be present at all hearings unless the respondent waives the right to be present either orally or in writing." This leaves respondents' counsel and the court in a dilemma since the respondent did not waive his/her hearing, either orally or in writing as the statute requires. This could create a delay in court proceedings because the statute requires the respondent to be present at the hearing.

As it turns out, I have been having to argue to the courts and the courts have agreed with me that by refusing to attend a hearing, the respondent implies that he or she is waiving his/her right to be present at the hearing and we hold the hearing without the respondent being present.

So, the proposed change is to allow the respondent's counsel to proceed to represent the respondent even though the respondent chooses not to be present and not have to worry about having to make implications to the court.

Third, regarding Section 7, lines 15-17 on page 5, the presenting language is confusing. For example, the original

phraseology states, "An initial order may not exceed ninety days." This can be confusing because an initial order usually follows a preliminary hearing which cannot be longer than fourteen days. So, this change is to clarify the language.

In the same section lines 25-31 goes back to the early 1990's when the whole commitment statute was amended. The old language sought to allow certain commitment orders to expire on their own after a certain amount of time. As you can see, this section is now moot.

Finally, in Section 9, lines 18-21 allows a respondent to appeal their case to the Supreme Court of North Dakota after certain types of hearings have been held. So, this amendment allows a respondent to appeal a modification order, an alternative treatment order or a less restrictive treatment order which are all final orders of the court.

I would be happy to answer any questions you may have.

Gregory Ian Runge
Attorney at Law