

MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND, AND DEAF

CHAPTER 245

HOUSE BILL NO. 1530
(Fleming)

EXPENSES FOR CARE AT GRAFTON STATE SCHOOL

AN ACT to amend and reenact sections 25-04-05, 25-09-02, 25-09-02.2, 25-09-03, 25-09-04, 25-09-04.1, 25-09-05, 25-09-06, subsection 1 of section 25-09-07, and section 25-09-10 of the North Dakota Century Code, relating to provisions for the charging of expenses for care and treatment of patients of the Grafton state school; and to repeal sections 25-09-03.1 and 25-09-11.1 of the North Dakota Century Code, relating to claims against estates of responsible relatives and reduction of claims against responsible relatives.

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

SECTION 1. AMENDMENT.) Section 25-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-05. QUALIFICATIONS FOR ADMISSION TO STATE FACILITY - TEMPORARY ADMISSION - CARE AND TREATMENT OF PERSONS UNDER TWENTY-ONE YEARS OF AGE WITHOUT CHARGE.)

1. The superintendent may admit a mentally deficient person who is a resident of this state to the state school or other state facility under his jurisdiction or the jurisdiction of the director of institutions when all of the following conditions have been met:
 - a. Application for admission has been made on behalf of the mentally deficient person by his parent or guardian or the person or agency having legal custody of him, or by the mentally deficient person himself, in accordance with procedures established by the director of institutions;
 - b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the director of institutions may require, indicates

to his satisfaction that the person is eligible for admission to the state school or other state facility; and

- c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the director of institutions.
2. The superintendent may admit to the state school or any other state facility under his jurisdiction or the jurisdiction of the director of institutions, temporarily for the purposes of observation, without commitment, under such rules and regulations as the director of institutions may prescribe, any person who is suspected of being mentally deficient, to ascertain whether or not such person is actually mentally deficient and a proper case for care, treatment, and training in the state facility. If in the opinion of the superintendent the person temporarily admitted to the state school is a proper subject for institutional care, treatment, and training at such school or facility, such person may remain as a voluntary resident at such school at the discretion of the superintendent if all other conditions for admission required by this section are met.
3. On and after July 1, 1975, care and treatment at the state school shall be provided without charge to anyone under twenty-one years of age who is qualified for admission pursuant to this chapter. On and after July 1, 1975, persons over twenty-one years of age who are qualified for admission pursuant to this chapter shall be responsible for expenses incurred through care and treatment at the state school in the manner provided by chapter 25-09.

SECTION 2. AMENDMENT.) Section 25-09-02 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-02. EXPENSES CHARGEABLE AGAINST PATIENT OR HIS ESTATE - FILING CLAIMS.) Expenses for care and treatment of each patient at the state hospital and each patient over twenty-one years of age at the Grafton state school shall, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health. The supervising department shall recover monthly from the patient, if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans' administration, such expenses shall be a current claim against such patient and may be recovered monthly by the supervising department except that any amount required by the payor of such benefits to be paid directly to the patient

shall, upon approval of the director of institutions, be credited to the patient's personal account from any money thus received.

SECTION 3. AMENDMENT.) Section 25-09-02.2 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-02.2. FILING OF CLAIMS - NOTICE TO DEPARTMENT.)

Claims for expenses incurred by the state for care and treatment of a patient at the state hospital or a patient over twenty-one years of age at the state school may be filed against the guardianship or the estate of such patient after his death or, except for a patient at the state school, against the estate of a responsible relative after his death, at any time prior to final distribution thereof, by the supervising department with the same priority as claims of general creditors which are filed against estates of decedents. Any claim denied or rejected by an administrator, executor, or guardian, shall clearly state the reason or cause for such denial or rejection, written notice of which shall be served upon the supervising department. Every administrator or executor upon the granting of letters of administration or testamentary shall, at the same time that publication of notice to creditors is required, forward to the supervising department a copy of the petition or application commencing probate, heirship proceedings, or joint tenancy tax clearance proceedings in the respective county court, together with a copy or list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of such estate. If no notice to creditors is required by the proceedings, such administrator, executor, or other petitioning party shall forward to the supervising department a copy of the petition or application commencing such proceedings, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of such estate.

SECTION 4. AMENDMENT.) Section 25-09-03 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-03. EXPENSES CHARGEABLE AGAINST GUARDIANSHIP ESTATE OF PATIENT - RESTRICTIONS.) The expenses incurred by the state for the care and treatment of any patient at the state hospital or any patient over twenty-one years of age at the state school shall be charged against the guardianship estate of such patient, if he has such an estate, subject to the following restrictions:

1. No part of such estate shall 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 estate would result in undue hardship to such dependents.
2. No real property belonging to such estate shall be sold during the lifetime of the patient except for the maintenance and support of his or her dependents, unless it is shown that the sale of such

property will not result in undue hardship to such dependents, and in either such event, it shall be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the supervising department.

3. No personal property belonging to such estate shall be sold within five years from the date upon which the patient was sent to the institution unless such property is ordered sold by the county court having jurisdiction of the estate for the reason that such property is likely to deteriorate in value during the time herein specified.
4. No claim shall 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.

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 his dependents, or used to pay the costs of care and treatment of the patient.

SECTION 5. AMENDMENT.) Section 25-09-04 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-04. RESPONSIBLE RELATIVES SHALL PAY FOR CARE AND TREATMENT - DEFINITION.) In the event of a patient's inability to pay for the costs of care and treatment, responsible relatives of such patient at the state hospital shall pay to the supervising department monthly, the actual cost of care and treatment incurred by the state at the institution, or such lesser amount as may be determined by law. For purposes of this chapter and title 25, "responsible relatives" shall mean the patient's spouse, father, or mother. No responsible relative shall be required to pay such costs for children upon such children reaching their eighteenth birthday in regard to indebtedness incurred from and after July 1, 1971.

SECTION 6. AMENDMENT.) Section 25-09-04.1 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-04.1. NONRESIDENT PATIENTS.) Nonresident patients at the Grafton state school and nonresident responsible relatives of such patients shall be liable for the full costs of care and treatment at the state school according to the provisions of sections 25-09-02 through 25-09-10.

For the purposes of this chapter:

1. "Nonresident patient at the Grafton state school" shall include:

- a. Any patient at such school who is under eighteen years old and whose responsible relative is not a bona fide resident of this state.
 - b. Any Indian patients for whom the United States government has through its statutes and regulations a responsibility for their care.
2. "Nonresident responsible relative" shall include the bureau of Indian affairs in those cases involving Indian patients for whom the United States government has through its statutes and regulations a responsibility for their care.

SECTION 7. AMENDMENT.) Section 25-09-05 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-05. INABILITY TO PAY ALL OR PART OF EXPENSES.)

1. The patient, former patient, his responsible relatives, or the executor, administrator, or guardian may make application to the supervising department to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state hospital. Such application shall be accompanied by proof of the patient's or his estate's or responsible relatives or their estates' inability to pay. Upon receipt of such application, the supervising department shall direct the county welfare board of the county from which the patient was admitted to determine whether the patient, former patient, or his responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county welfare board. The determination made by the supervising department may be appealed to the district court of Burleigh County or the district court of the county of residence of the patient or his responsible relatives. Any patient, former patient, responsible relative, guardian, executor, or administrator who seeks relief for the payment of the cost of care and treatment by filing an application for relief of payment, shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment by a request for information from financial institutions, including commercial banks. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

2. The patient, former patient, executor, administrator, or guardian may make application to the supervising department to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state school. Such application shall be accompanied by proof of the patient's or the estate of the patient's inability to pay. Upon receipt of such application, the supervising department shall direct the county welfare board of the county from which the patient was admitted to determine whether the patient, former patient, or the patient's estate is able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county welfare board. The determination made by the supervising department may be appealed to the district court of Burleigh County or the district court of the county of residence of the patient. Any patient, former patient, guardian, executor, or administrator who seeks relief for the payment of the cost of care and treatment by filing an application for relief of payment, shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment by a request for information from financial institutions, including commercial banks. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

SECTION 8. AMENDMENT.) Section 25-09-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-06. APPLICATION FOR REVIEW OF ABILITY TO PAY.)

1. Any patient or former patient at the state hospital or any responsible relative or their executors, administrators, or guardians, may make application to the supervising department not more often than once each calendar year for a review of the determination made by the supervising department in regard to the ability of such persons or their estates to pay costs of care and treatment. Such application and review shall be treated in the same manner as an original application by such persons for a determination of their inability to pay costs of care and treatment. Upon such review, the supervising department may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition, the supervising department

on its own motion may review the ability of the patient, the former patient, or his responsible relatives, or their estates, to pay for costs of care and treatment, which determination may be made retroactive.

2. Any patient or former patient at the state school or the patient's or former patient's executor, administrator, or guardian, may make application to the supervising department not more often than once each calendar year for a review of the determination made by the supervising department in regard to the ability of such patient, former patient, or estate to pay costs of care and treatment. Such application and review shall be treated in the same manner as an original application by such persons for a determination of inability to pay costs of care and treatment. Upon such review, the supervising department may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition, the supervising department on its own motion may review the ability of the patient, former patient, or estate to pay for costs of care and treatment, which determination may be made retroactive to such date as it may determine.

SECTION 9. AMENDMENT.) Subsection 1 of section 25-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Upon the request of the supervising department to the various state's attorneys or attorney general, in regard to expenses incurred by the state of North Dakota for the care and treatment of a patient at the state hospital or a patient over twenty-one years of age at the state school, the respective state's attorneys or attorney general shall bring an action against the patient or his estate in the case of a patient at the state school, and against the patient or his estate or his responsible relatives or their estates in the case of a patient at the state hospital, for the payment of the amount due the state.

SECTION 10. AMENDMENT.) Section 25-09-10 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-10. DISPOSITION OF NONRESIDENTS - EXCEPTIONS - RECIPROCAL AGREEMENTS.)

1. If a person who has no legal residence in this state or whose residence is unknown is found to be a fit subject for care and treatment in the state hospital, such person shall be sent to such institution in the same manner, and accompanied by the same documents as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of such person, and if found to be in another

state or country the supervising department may arrange for transportation of such person to the place where he belongs. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally ill persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with any laws of this state.

2. If a person who has no legal residence in this state or whose residence is unknown is found to be fit subject for care and treatment in the state school, such person shall be sent to such institution in the same manner, and accompanied by the same documents, as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of such person or his responsible relatives, and if found to be in another state or country the supervising department shall arrange for transportation of such person to the place where he belongs unless such person can be accommodated at the Grafton state school without depriving a North Dakota resident of care and treatment at the Grafton state school and adequate costs of care are paid for within a reasonable time, or unless a reciprocal agreement has been entered into with another state regarding the care and commitment of such a nonresident. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally deficient persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with any laws of this state.

SECTION 11. REPEAL.) Sections 25-09-03.1 and 25-09-11.1 of the 1973 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 9, 1975

CHAPTER 246

SENATE BILL NO. 2407
(Longmire)

MENTAL HEALTH SERVICE UNITS

AN ACT to amend and reenact section 25-12-02 of the North Dakota Century Code, relating to mental health service units.

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

SECTION 1. AMENDMENT.) Section 25-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-12-02. STATE AID - APPLICATION - PROGRAM APPROVAL - LOCAL SUPPORT - LICENSING.)

1. Cities, counties, or other political subdivisions or any combination thereof, and private nonprofit corporations may apply to the mental health division of the state department of health for assistance in establishing and maintaining mental health and retardation service units. In the case of a private nonprofit corporation a contract between the mental health division and the corporation shall be entered into for state aid and for the provision of mental health and retardation services by such corporation, which contract shall be upon such terms as the mental health division shall prescribe. The unit or corporation requesting state aid shall submit to the mental health division of the state department of health not later than March first of each year the proposed budget for the following year, plus detailed plans with regard to the extent of services which shall include fee schedules based on the ability to pay and programs to be undertaken. The division shall not allocate any funds to any unit maintaining or establishing mental health and retardation service units until the proposed budget and detailed plans shall be approved by the division. During July of each year the mental health division shall allocate funds, to the extent available, to the various units in accordance with approved budgets and programs. The division shall have authority to reallocate unencumbered funds that have been allocated and may withdraw unencumbered funds if the services and programs of the mental health and retardation service unit do not correspond to the approved budget and plans forwarded to the health department.

2. State support to any mental health or retardation service unit shall not exceed forty percent of such unit's total expenditure for salaries, contract facilities and services, maintenance and service costs, expenses of the board of directors of the unit, and other expenses authorized by the mental health division of the state department of health. No reimbursement from moneys appropriated to the mental health division of the state department of health by the legislative assembly shall be authorized for any capital expenditures.
3. A mental health and retardation service unit comprising only one political subdivision may receive aid from such political subdivision to the extent that its governing body agrees to participate. If a mental health or retardation service unit comprises more than one political subdivision, the unit shall receive aid from the political subdivisions in proportion to the assessed valuation of each political subdivision or in such other manner as their governing bodies shall agree. A private nonprofit corporation may receive aid from any political subdivision on a contract basis, entered into between the officers of the corporation and the governing body of the political subdivision or subdivisions, for services to be rendered to the political subdivision and its residents.
4. The governing body of any such political subdivisions for the purpose of operating, maintaining, or participating in the operation and maintenance of mental health and retardation service units or providing such services by contract in accordance with this chapter, may by resolution of the governing body thereof submit the question of the authorization of a tax upon all taxable property in the political subdivision of not to exceed three-quarters of one mill to the electorate of the political subdivision at any special or regular election. If such levy shall be approved by the majority of the electors voting thereon, a tax not in excess of that authorized may be levied by the governing body of the political subdivision for the purpose of providing services as authorized in this chapter. Such levy, when authorized, shall be over and above any mill levy limitation provided by law, provided, however, there shall not be more than one election per year on the mill levy.
5. The mental health division of the state department of health is hereby authorized to license mental health and retardation service units established pursuant to this chapter. The mental health division shall promulgate standards, rules, and regulations for the operation of the mental health and retardation facilities licensed hereunder in accordance with chapter 28-32 and may, in accordance with chapter 28-32, suspend the license of any facility which does not remain in compliance with the

standards, rules, and regulations so promulgated. No mental health and retardation service unit may operate after the effective date of this Act without a license issued hereunder.

Approved March 27, 1975

CHAPTER 247

HOUSE BILL NO. 1537
(Mertens, Hildebrand)

SALE OF DEAF SCHOOL LAND

AN ACT to provide for the sale of land belonging to the school for the deaf to Devils Lake public school district no. 1, and declaring an emergency.

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

SECTION 1.) The director of institutions is hereby authorized to sell certain state lands under the control and management of the school for the deaf of North Dakota to the Devils Lake school district no. 1, which lands are described as follows:

A parcel of land located in the southwest quarter of section twenty-seven, in township one hundred fifty-four north of range sixty-four west of the fifth principal meridian, Ramsey County, state of North Dakota, further described as follows: Beginning at a point eighty feet north, along the section line between sections twenty-seven and twenty-eight, of the quarter - quarter corner on the west side of the southwest quarter of said section twenty-seven and thirty-three feet east of said section line, thence turn a deflection angle right of eighty-nine degrees fifty-nine minutes and proceed easterly a distance of two thousand three hundred twenty-one and one-tenth feet, thence turn a deflection angle right of eighty-four degrees forty-eight minutes and proceed southerly along the west right-of-way of ND highway 20 on a zero degree forty-two minute curve to the left a chord distance of five hundred two and six-tenths feet, thence turn a deflection angle left of ninety-one degrees fifty-five minutes and proceed easterly a distance of forty and five-tenths feet, thence turn a deflection angle right of ninety degrees sixteen minutes and proceed southerly a distance of ninety-eight and five-tenths feet, thence turn a deflection angle right of ninety-eight degrees forty-five minutes and proceed westerly a distance of two thousand four hundred twenty-one and one-tenth feet, thence turn a deflection angle right of eighty-eight degrees seven minutes and proceed northerly along the section line between sections twenty-seven and twenty-eight a distance of five hundred twelve and nine-tenths feet to the point of beginning. This tract contains thirty and two-tenths acres more or less.

The director of institutions shall cause the above described property to be appraised, and shall set the minimum sale price for the land. The director of institutions is authorized to negotiate the sale of the aforescribed real estate, but under no conditions may negotiate for the sale of the land in an amount less than that appraised by the board of university and school lands. Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed. Further, the quitclaim deed shall recite that if the land is ever no longer used for school purposes, then the land shall revert to the state of North Dakota upon payment to the school district of the same price for which it was purchased. Further, the quitclaim deed shall recite that the students enrolled at the school for the deaf of North Dakota are guaranteed use of the facilities placed upon the property by Devils Lake public school district no. 1 in the proportion that the number of students enrolled at the school for the deaf of North Dakota bears to the total number of students entitled to use the facilities.

Upon sale of such land, the proceeds shall be deposited in a special fund in the state treasury and the funds so deposited shall be set aside for use toward the construction of an addition to the library at the school for the deaf at Devils Lake.

The real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 25, 1975