

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact section 25-03.1-20, subsection 3 of section 25-03.1-21,  
2 and section 25-03.1-26 of the North Dakota Century Code, relating to involuntary treatment and  
3 emergency detention.

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

5 **SECTION 1. AMENDMENT.** Section 25-03.1-20 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **25-03.1-20. Involuntary treatment hearing - Findings and dispositions.**

8 If an individual is found at the involuntary treatment hearing to be a person requiring  
9 treatment, the findings and conclusions must be entered in the record of the proceedings and  
10 the court may:

- 11 1. Order the individual to undergo a program of treatment other than hospitalization;
- 12 2. Order the individual hospitalized in a public institution, if below capacity; or
- 13 3. Order the individual hospitalized in any other private hospital if the attending physician  
14 agrees. The reason supporting the court's particular treatment order must be entered  
15 in the record.

16 **SECTION 2. AMENDMENT.** Subsection 3 of section 25-03.1-21 of the North Dakota  
17 Century Code is amended and reenacted as follows:

- 18 3. If a peace officer, physician either in person or directing an emergency medical  
19 services professional, or any mental health professional reasonably believes the  
20 respondent is not complying with an order for alternative treatment, that the alternative  
21 treatment is not sufficient to prevent serious risk of harm, and that considerations of  
22 time and safety do not allow intervention by a court, the designated professional may  
23 cause the respondent to be taken into custody and detained at a treatment facility as  
24 provided in subsection 3 of section 25-03.1-25 and, within twenty-four hours, shall file

1 a notice with the court stating the circumstances and factors of the case. The state  
2 hospital or public treatment facility, if below capacity, immediately shall accept, if  
3 appropriately screened and medically stable, and a private treatment facility may  
4 accept, the respondent on a provisional basis. The superintendent or director shall  
5 require an immediate examination of the respondent and, within twenty-four hours  
6 after admission, shall release the respondent subject to the conditions of the original  
7 order or file a notice with the court stating in detail the circumstances and factors of  
8 the case. The court, within forty-eight hours of receipt of the notice of the  
9 superintendent or director, after a hearing and based on the evidence presented and  
10 other available information, shall:

- 11 a. Release the respondent from hospitalization and continue the alternative  
12 treatment order;
- 13 b. Consider other alternatives to hospitalization, modify the original order of the  
14 court, and direct the respondent undergo another program of alternative  
15 treatment for the remainder of the commitment period; or
- 16 c. Enter a new order directing the respondent remain hospitalized until discharged  
17 from the hospital under section 25-03.1-30.

18 **SECTION 3. AMENDMENT.** Section 25-03.1-26 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice -**  
21 **Court hearing set.**

- 22 1. A public treatment facility, if below capacity, immediately shall accept and a private  
23 treatment facility may accept on a provisional basis the application and the individual  
24 admitted under section 25-03.1-25. The superintendent or director shall require an  
25 immediate examination of the subject and, either within twenty-four hours, exclusive of  
26 holidays, after admission or within seventy-two hours after admission, exclusive of  
27 holidays, if the individual is admitted with a serious physical condition or illness that  
28 requires prompt treatment, shall either:
  - 29 a. Release the individual if the superintendent or director finds that the subject does  
30 not meet the emergency commitment standards; or

- 1           b.    File a petition if one has not been filed with the court of the individual's residence  
2                    or the court which directed immediate custody under subsection 2 of section  
3                    25-03.1-25, giving notice to the court and stating in detail the circumstances and  
4                    facts of the case.
- 5           2.    Upon receipt of the petition and notice of the emergency detention, the magistrate  
6                    shall set a date for a preliminary hearing, if the respondent is alleged to be a person  
7                    who is mentally ill or a person who is both mentally ill and chemically dependent, or a  
8                    treatment hearing, if the respondent is alleged to be a person who is chemically  
9                    dependent, to be held no later than four days, exclusive of weekends and holidays,  
10                  after detention unless the person has been released as a person not requiring  
11                  treatment, has been voluntarily admitted for treatment, has requested or agreed to a  
12                  continuance, or unless the hearing has been extended by the magistrate for good  
13                  cause shown. The magistrate shall appoint counsel if one has not been retained by  
14                  the respondent.