

**Sixty-third Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2198  
(Senators Miller, Armstrong, Hogue)  
(Representatives Becker, K. Koppelman, Toman)

AN ACT to create and enact a new section to chapter 25-03.3 of the North Dakota Century Code, relating to annual reviews and petitions for discharge during a period of imprisonment; and to amend and reenact section 12.1-04-07 of the North Dakota Century Code, relating to reports regarding a defendant's fitness to proceed in a criminal proceeding.

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

**SECTION 1. AMENDMENT.** Section 12.1-04-07 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-04-07. Report - Hearing when contested.**

1. The report of the examining psychiatrists or psychologists must be given in writing to the court within three days of expiration of the period of commitment or, if the defendant is not committed, within thirty days after the outpatient evaluation. The court shall cause copies to be delivered to the prosecutor and counsel for the defendant.
2. The report must include:
  - a. The identity of the individuals interviewed and records and other information considered.
  - b. Procedures, tests, and techniques utilized in the assessment.
  - c. The date and time of the examination of the defendant, and the identity of each individual present during the examination.
  - d. The relevant information obtained, other information not obtained which the examiner believes may be relevant, and the findings made.
  - e. An opinion as to whether the defendant is fit to proceed or is unable to effectively communicate with counsel and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future.
3. If the findings of the report are contested, the court shall hold a hearing prior to deciding whether the defendant currently lacks fitness to proceed or currently lacks ability to effectively communicate with counsel and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future. Upon hearing, the prosecution and defense have the right to summon and cross-examine the persons responsible for the report and to offer evidence upon the issues.

**SECTION 2.** A new section to chapter 25-03.3 of the North Dakota Century Code is created and enacted as follows:

**Annual review - Petition for discharge - Inapplicability during periods of imprisonment.**

Sections 25-03.3-17 and 25-03.3-18 do not apply if a respondent, during a period of commitment under this chapter, is transferred to the custody of the department of corrections and rehabilitation in accordance with section 29-27-07 or is serving a term of imprisonment in a county jail or regional corrections center. Upon release from imprisonment, the respondent must be retransferred to the care,

custody, and control of the executive director. Upon retransfer, the respondent is entitled to a review to determine whether continued commitment under this chapter is warranted.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2198.

Senate Vote:    Yeas 47            Nays 0            Absent 0

House Vote:    Yeas 93            Nays 0            Absent 1

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2013,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State