

**LETTER OPINION**  
**96-L-153**

August 30, 1996

Mr. Owen K. Mehrer  
Stark County States Attorney  
PO Box 130  
Dickinson, ND 58602-0130

Dear Mr. Mehrer:

Thank you for your letter inquiring whether a county sheriff is required to transport a person to the State Hospital or other treatment facility when an emergency commitment is made pursuant to North Dakota Century Code (N.D.C.C.) § 25-03.1-25(1) by an authorized person other than a sheriff or deputy.

Under N.D.C.C. § 25-03.1-25(1),(5) a peace officer, physician, psychiatrist, psychologist, or mental health professional may cause an individual to be taken into custody and conveyed to a treatment facility for evaluation and possible treatment. The emergency commitment procedure is authorized for reasons of safety when it is believed there is a serious risk of harm and the individual is a person requiring treatment. Id. See also N.D.C.C. §§ 25-03.1-26, 25-03.1-27. The definition of "peace officer" includes a county sheriff or a deputy. N.D.C.C. § 29-05-10.

In response to the similar question of "whether a person authorized to make an emergency commitment under N.D.C.C. § 25-03.1-25(1) may require law enforcement personnel to take into custody and transport a person committed on an emergency basis," I have previously concluded that:

N.D.C.C. § 25-03.1-25 authorizes a physician, psychiatrist, psychologist, or mental health professional to require a law enforcement officer from the appropriate local jurisdiction to convey a person to a treatment facility when necessary in an emergency situation. If it were otherwise, the language from N.D.C.C. § 25-03.1-25(1) that such professionals may "cause the person to be taken into custody and detained at a treatment facility" would be rendered meaningless. It could not be reasonably expected that such professionals could cause a violent or potentially dangerous person to be taken into custody and treatment without the assistance of law enforcement officials.

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1994 N.D. Op. Att'y Gen. L-78, L-80 (enclosed).

Furthermore, transporting a person who poses a serious risk of harm to that person, others or property is consistent with the duties of a sheriff to "[p]revent and suppress all affrays [and] breaches of the peace . . ." and "to [p]erform such other duties as are required of the sheriff by law." N.D.C.C. § 11-15-03(3),(10). This is also consistent with the requirements that a sheriff or deputy receive mileage "for transporting persons committed . . . to the State Hospital [and] utilize the least expensive method of transportation. . . ." N.D.C.C. § 11-15-25.

In construing a statutory provision the whole statute is considered. The intent of the Legislature is derived by comparing every section and subsection as a part of that whole and by considering other statutes on the same subject matter. Thompson v. N.D. Dept. of Agriculture, 482 N.W.2d 861, 863 (N.D. 1992). The objects sought to be obtained, the statute's connection to other related statutes, and the consequences of a particular construction also are considered. In Interest of M.Z., 472 N.W.2d 222, 223 (N.D. 1991).

When all statutes concerning emergency commitments are construed together, the legislative scheme requires that when necessary a sheriff or deputy or other local law enforcement officer transport individuals for evaluation and treatment. See N.D.C.C. §§ 11-15-03(3),(10), 11-15-25, 25-03.1-25, 25-03.1-26, 25-03.1-27. To conclude otherwise would render futile the procedure for emergency detention and transportation for evaluation and treatment if required. The Legislature "is presumed to act with purpose and not perform useless acts." State v. Bielke, 489 N.W.2d 589, 592 (N.D. 1992). See also N.D.C.C. § 1-02-38. A contrary conclusion would also frustrate the purpose of the scheme of commitment to "[p]rovide prompt evaluation and treatment of persons" requiring treatment. N.D.C.C. § 25-03.1-01(1).

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

tam/jrs  
Enclosure