

# Frequently Asked Questions About Civil Commitments

Massachusetts General Laws Chapter 123, sec 35 permits the courts to involuntarily commit someone who has an alcohol or substance use disorder and there is a likelihood of serious harm as a result of his/her alcohol or substance use. Such a commitment shall be for the purpose of inpatient care of a person with an alcohol or substance use disorder in a facility licensed or approved by the Department of Public Health or the Department of Mental Health for a period of up to, but not to exceed 90 days.

## *The Process*

### How do I get someone committed?

According to the statute, only a qualified petitioner may request the court to commit someone to treatment under Section 35. They are: a spouse, blood relative, guardian, a police officer, physician, or court official. They must go to the local court and fill out papers. In legal language, they must "file a written petition or affidavit for an order of commitment". Petitions may be filed at a District or Juvenile Court

### What happens once a petition is filed with the court?

Once the court receives the petition the next steps are:

- 1) The court reviews the facts and decides whether or not to issue an order of commitment
- 2) If yes, then the person who is the subject of the petition must come to court that day. The court can issue them either a summons or a warrant of apprehension.  
Summons – a written notice delivered to the person  
Warrant – allows police to pick the person up. A warrant can be executed only during court hours.
- 3) If a warrant is issued and the person is picked up, they will be handcuffed, taken to court, and put in a holding cell to wait for a hearing.

The person has the right to a lawyer and to present their own evidence or independent information. The court will arrange for an evaluation by a Forensic psychiatrist, psychologist, or approved social worker to examine them.

The court will hear the testimony and evidence from the exam and other evidence that relates to the case and then make a decision to grant or deny the petition for commitment.

The court's decision is based on whether the individual meets the criteria of two things:

- 1) The individual has an alcohol or substance use disorder

AND

- 2) There is a likelihood of serious harm as a result of their substance use disorder.

Both factors must exist. A person does not meet criteria for commitment based solely on having an alcohol or substance use disorder.

### What is likelihood of serious harm?

To meet criteria for civil commitment, "likelihood of serious harm" must exceed what harm can be reasonably assumed to exist, when any individual abuses alcohol or other drugs, but for the purpose of involuntary commitment the statute defines "likelihood of serious harm" as:

- 1) A substantial risk of physical harm to the person himself/herself as manifested by evidence of threats of, or attempts at suicide or serious bodily harm; OR
- 2) A substantial risk of physical harm to others as manifested by evidence of homicidal or other violent behavior or evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them; OR
- 3) A very substantial risk of physical impairment or injury to the person himself/herself as manifested by evidence that such person's judgment is so affected that he/she is unable to protect himself/herself in the community and that reasonable provision for his/her protection is not available in the community.

The "likelihood of serious harm" must be directly related to the substance use and must be a current or imminent threat.

## **What happens if the court orders the commitment?**

If the judge grants the petition and orders the commitment, the individual will be returned to a holding cell to await transportation by the local Sheriff's Department to the commitment facility. Transportation typically does not occur until after the courts close so the individual may wait several hours depending on what time their hearing was held.

The Forensic evaluator, after conferring with Central Intake, will make a recommendation to the judge as to what facility will provide the most appropriate level of services. The following programs are approved to treat civil commitments.

### For males:

- Men's Addiction Treatment Center (MATC)
- Mass Alcohol and Substance Abuse Center (MASAC)

### For females:

- Women's Addiction Treatment Center (WATC)
- Women's Recovery from Addictions Program – Taunton (WRAP)
- High Point – Jamaica Plain (HP-JP)
- And in some cases designated public ATS programs

## **Will the commitment be for 90 days?**

The statute states the commitment may be up to, but not exceed 90 days. The commitment may be less than the 90 days depending on the individual's clinical needs and if they cease to meet the criteria for likelihood of serious harm to themselves.

## **If an individual no longer meets commitment criteria can they remain in the program on a voluntary basis for continued treatment?**

Yes. Length of commitment shouldn't be confused with length of treatment episode. Although the individual does not meet the criteria for involuntary commitment, they may meet the criteria for continued care. All admissions are encouraged to continue in the treatment episode at this level or at lower levels of care.

## **Can one be transferred from one facility to another if a bed opens?**

Individuals admitted to a facility will typically complete the commitment at that facility. Under certain circumstances Section 35 programs may transfer patients to other programs based on their medical or psychiatric needs.

## **If an individual has court cases will the programs hold them for the court appearance date?**

The programs will not hold individuals specifically for court dates. If the individual ceases to meet commitment criteria they must be released. DPH programs do not have the statutory authority to hold individuals that have bail set by the courts. The programs are not secure to the level required for custody for public safety reasons and are not intended to be an alternative sentence option.

## **If I don't want the commitment to occur in a correctional facility can I withdraw the petition?**

Once the petition has been filed it cannot be withdrawn without the permission of the court. If the commitment has been granted, it must occur regardless of what facility it is to.

## **Are there any other consequences to a commitment?**

Yes, sec 35 of Ch 123 now requires the courts to provide a commitments' name, SS #, and D.O.B. to the department of criminal justice information services and the person will be prohibited from being issued a firearms identification card. This may be appealed under certain circumstance after 5 years.

## **Can the programs handle all kinds of medical needs?**

No. Some individuals may have complicated medical conditions that cannot be appropriately treated in a civil commitment facility. They may require admission to a hospital based program.

## **Can programs handle co-occurring mental health problems?**

Yes, but if an individual has a psychiatric disorder which needs to be stabilized and/or managed to be able to treat the substance use disorder, they will have to be referred to a psychiatric hospital or be committed under MGL Ch 123 section 12.

## What kind of help will an individual receive?

Once admitted to a facility, an assessment will be completed regarding the persons' need for detoxification. The length of time in a detoxification unit varies depending on the substance he/she is using, the amount of use, the time since his/her last use, and his/her overall health. Once detoxification is complete he/she will receive clinical support services. The individual learns more about addiction, sobriety, and how to prevent relapse. Counselors and case managers will work with individuals to help them recognize the consequences of their addiction and hopefully motivate them to accept aftercare plans to continue their treatment.

The goal of the program is to have every client remain in treatment for as long as necessary. The level of care is determined by an individual's treatment needs and lengths of time in different levels are based on the persons' progress in each level.

## Will the sec 35 commitment make the individual stop using?

Recovery is a process and detoxification is a start. It is important to understand that addiction is defined as a chronic, relapsing brain disease that is characterized by compulsive drug seeking and use, despite harmful consequences. For some individuals a civil commitment to treatment begins their recovery. Others do not see a need or have a willingness to address their alcohol or substance use disorders. As with all behavior changes, they cannot be simply ordered so the programs will work to provide education on substance use disorders, relapse prevention, aftercare resources and hopefully motivate the individual to want to take the next step in recovery.

## Is a sec 35 a good first treatment option?

No. To involuntarily commitment someone should be the last option for treatment and not the first. If an individual is willing to enter treatment voluntarily there are a number of private and public programs that are available that can provide treatment. If an individual feels they are part of making the decision to enter treatment they often will be more receptive to it. Outcomes are often better if an individual is motivated and willing to engage in treatment, in the least restrictive environment. Many times just the threat of being committed will influence an individual to enter treatment voluntarily.

## What are some other options?

There are many programs that can help family or friends learn more about addiction, the process of recovery and how to best intervene. It is helpful for families, friends, and significant others, to learn about addiction and to understand the process of recovery. Many of the individuals that are committed return to their family, to continue their treatment. Being aware of what one's role is, in supporting recovery, will increase the chance of a successful outcome.

Self- help organizations can be resources for families and friends.

### Alcoholics Anonymous:

AA is a fellowship of men and women who have had a drinking problem.

<http://www.aa.org> 617-426-9444

### Al-Anon/Al-Ateen:

Strength and hope for friends and families of problem drinkers

<http://al-anon.org> 508-366-0556

### Nar-Anon:

A 12 step program for families and friends of addicts

<http://www.nar-anon.org> 866-624-3578

### Allies in Recovery

AIR is an online-learning platform for families with a loved one struggling with drugs or alcohol

<http://alliesinrecovery.net>

### Learn to Cope

Learn to Cope is a peer-led support network for families dealing with addiction and recovery

<http://learn2cope.org> 508-738-5148

### Helpline

To find substance abuse programs, hotlines, support groups, self-help meetings, counseling services, and community resources

[www.help-online.com](http://www.help-online.com) 1-800-327-5050, Monday – Friday 8a.m-10p.m, Weekends and Holidays 9a.m-5p.m