

Section 35

- Go to the courthouse in the jurisdiction where person resides
- See the Court Clinician

About the Statute

Massachusetts General Laws Chapter 123, Section 35 permits the courts to involuntarily commit someone whose alcohol or drug use puts themselves or others at risk. Such a commitment can lead to an inpatient substance abuse treatment for a period of up to 30 days.

Under the law, the person can be committed to a licensed treatment facility or, if none is available, to a separate unit at the correctional facility at Bridgewater for men or Framingham for women.

In 2006, a new system of care for women was established and in 2008, a similar one was established for men. The Women's Addiction Treatment Center (WATC) is in New Bedford and the Men's Addiction Treatment Center (MATC) is in Brockton both provide intake and treatment for those civilly committed under this law

Is a Section 35 the only option?

No. There are other options. Many outpatient substance abuse treatment programs and private counselors conduct formal interventions. It is important to work with a professional who can help you decide if this process is appropriate for your family or client.

To plan an intervention, family and friends should meet with a trained counselor who will help them to:

- Express concerns about their loved one's substance use.
- Identify the person's resistance to stop using substances.
- Decide what they can and cannot do.
- Accept the outcome if the person refuses to accept treatment.

This is called setting your bottom line. Examples of bottom lines can be:

- Not lending the individual any more money.
- Not allowing her/him to drink in your home.
- The possibility of petitioning for a Section 35 commitment as part of the bottom line.

We know that people important to the individual abusing substances can have a tremendous impact both positively and negatively on a person's denial of their substance abuse problem.

Individuals who are requesting treatment on their own should be considered for referral to public programs that can provide treatment on a voluntary basis, rather than be referred to a Section 35 petition process.

The Process

How do I get someone committed to treatment under Section 35?

These adults may request the district court to commitment someone to treatment under Section 35:

- A spouse , blood relative, or guardian
- Any police officer, physician, or court official.

They must go to the local district court and fill out papers. In legal language, they must “file a written petition for an order of commitment.”

What happens once a petition is filed with the court?

Here are the next steps in order:

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 issues 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 issued only during court hours. Police will pick a person up only if the court is open.
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 experts.
 - The court will arrange for a (forensic) psychiatrist or psychologist to examine them

How will the court decide what to do?

The court will review medical facts (evidence) from the exam and other evidence that relates to the case.

The court can order commitment only if:

1. There is a medical diagnosis of alcoholism or substance abuse, AND
2. A likelihood of serious harm to the subject or others as a result of the substance abuse exists.

So, what do you mean by “likelihood of serious harm?”

Serious harm means more than the everyday harm that substance abuse can create – harm to the abuser or to others.

Examples of Likely Serious Harm

- The person can't think clearly enough to care for or protect themselves in the community.
- The person's behavior makes others fear violence
- The person may badly injure themselves

The "likelihood of serious harm" must be directly related to the substance abuse and must be a threat now.

Consequences

What happens next if the court orders her/him to be committed?

The judge orders her/him to a licensed inpatient substance abuse treatment facility such as, the Women's Addiction Treatment Center (WATC) facility in New Bedford, the Men's Addiction Treatment Center (MATC) in Brockton or another community treatment center. If a bed is not available the commitment would be to:

- Females MCI-Framingham
- Males Massachusetts Alcohol Substance Abuse Center (MSAC) treatment facility in MCI Bridgewater

What kind of help will an individual receive?

Once committed to a facility, an assessment will be completed regarding the person's need for detoxification. The length of time in a detoxification unit varies depending on the substance she/he is using, the amount of use, the time since her/his last use, and her/his overall health.

Once detoxification is complete she/he will receive rehabilitation services. This may or may not be in the same facility. Moreover, in the rehabilitation phase, the individual learns more about addiction, how to stay sober, and how to prevent relapse. Counselors then encourage individuals to engage in aftercare treatment services and supports.

What if she/he is too sick to go to a detoxification program?

Some individuals may have complicated medical conditions that cannot be appropriately treated in a standard detoxification unit. They may require what is called a "Level 4" program, if they have the following:

- Cardiovascular disorders that require monitoring
- Acute liver disease
- Biomedical problems that need stabilization and 24 hour medical management, observation, or evaluation
- Infectious open sores
- Major head trauma or loss of consciousness that requires monitoring

- Medical conditions that require a higher level of medications

What if they have a co-occurring mental health problem?

If a client has a psychiatric disorder which needs to be stabilized and/or managed to be able to treat the substance addiction they will have to be referred to a psychiatric hospital. Some examples of these disorders or symptoms are:

- Schizophrenia
- Bipolar Disorder
- Major Depressive Disorder
- Symptoms such as psychosis (delusions or hallucinations) mania, acute depression, suicidal or homicidal

How long will the commitment be for?

The length of the civil commitment will vary with the severity of the client's addiction and the client's response to treatment. The commitment cannot exceed 30 days.

Important Considerations

Will a Section 35 commitment cure her/his alcohol or drug problem?

Recovery is a process and detoxification is a start. For some individuals, a civil commitment to treatment begins their recovery. Others do not see a need to stop using alcohol or other drugs.

It is helpful for family and friends to learn about addiction and to understand the process of recovery.

Self-help organizations, such as AA, Al-Anon and Nar-Anon and Learn to Cope are resources for families and friends:

- AA 617-426-9444
- Al-Anon 781-843-5300
- Nar-Anon 866-624-3578
- Learn to Cope www.learn2cope.org
- The Massachusetts Substance Abuse Information and Education Helpline 800-327-5050

Can I go back to court if she/he drinks or uses other drugs again?

Yes, you may file a new petition. However, it is not automatic that she/he will be committed based on a history of having been committed before. The statute (law) addresses individuals whose substance use results in the current likelihood of serious harm. It does not address many individuals whose chronic use of alcohol or other drugs may have dire long term consequences.