

Substance Use Disorder Involuntary Commitment (IVC)

If you believe someone you know is an immediate danger to self or others, call 911 for a well-being check. As a family member or close friend, if you believe your loved one is in danger, you can get involved by seeking involuntary commitment.

What is Involuntary Commitment for Substance Use?

If your loved one is not able or willing to seek treatment, an involuntary commitment may be necessary to get them the help they need. An IVC for substance use is when someone with a substance use disorder can be legally obligated to obtain emergency treatment. In order for an IVC, the individual must meet criteria in South Dakota law (SDCL 34-20A-63) which includes both being a substance user who continually lacks self-control in regards to their alcohol and/or drug use and one of the following:

- Has threatened, tried, or caused physical harm to himself or herself or to another or is likely to cause harm to another or self
- Is incapacitated by the effects of alcohol or drugs
- Is using drugs or alcohol while pregnant

Applying

Any responsible person may apply. For example, a spouse, relative, friend or physician can apply to the Clerk of Courts in the county where the person has residence or is currently located.

What next?

Step 1: Petition

There is an application to complete. The Clerk of Courts gives it to a judge, who appoints an attorney to represent you (as the person making the petition). Within five days, the attorney completes and submits a petition, along with reports from an addiction counselor, to the courts alleging that your loved one needs to be committed.

Even though you made a petition/application, this does not mean that your loved one will be committed. There has to be a threat, attempt, or act of physical harm to self or others or the likelihood that harm may occur before the court would commit a person to treatment services without his or her consent.

An assessment will be done by an addiction counselor and must be completed within two days prior to the filing of the petition; it must support the allegations in the petition. The attorney will set up the appointment with the respondent and a counselor. The counselor will make treatment recommendations based on the individual's needs. The services may include inpatient treatment, residential treatment, or outpatient treatment. If the respondent refuses to meet with the addiction counselor for completion of the certificate, this will be documented in the petition.

Step 2: Hearing:

- Right to Attorney:
 - The respondent has the right to his or her own attorney.
- Time frame:
 - A hearing will be held within 10 business days.

- Testimony:
 - The petitioner and the addiction counselor could be requested to testify at the hearing. The respondent will be present in court, except if his or her presence is likely to cause damage or harm to the person testifying.
- Decision:
 - The Judge will determine if commitment requirements are met based on the testimony of the petitioner and the addiction counselor. If the requirements are met, the court will make an order of commitment to an approved treatment facility that is able to provide appropriate and beneficial treatment.

Step 3: Commitment

- Treatment services:
 - The addiction counselor completing the substance use certificate will arrange treatment based on his or her treatment recommendations. The addiction counselor completing the assessment cannot work at the agency your loved one is committed to for treatment.
 - A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.
- Involuntary commitment:
 - An individual can be committed for up to 90 days, and this can include inpatient treatment, residential treatment or outpatient treatment services. The length of commitment is individualized for clients' needs at the treatment agency. If it is found that the likelihood of harm or infliction of physical pain upon self or others no longer exists, or that no further treatment is appropriate, the individual may be discharged.

Payment

Please be aware that payment for treatment services, under the involuntary commitment, may be assigned to insurance, private pay, other 3rd party payers, a combination of state and federal funding, or Medicaid.

For more information, call 211 or search our online database:

- www.helplinecenter.org/211database
 - Try the following keyword search terms:
 - 911 Services
 - County Clerk of Courts Offices
 - Involuntary Substance Abuse Treatment Orders
 - General Assessment for Substance Abuse

Sources/Resources:

- South Dakota Department of Social Services: <https://dss.sd.gov/behavioralhealth/community/involuntary.aspx>
- DSS Commitment Process: <https://dss.sd.gov/docs/behavioralhealth/commitmentprocessoption1.pdf>
- South Dakota Codified Laws: http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=34-20A

South Dakota Department of Social Services

- <https://dss.sd.gov/behavioralhealth/hsc/access/adultpsych.aspx>
- <https://dss.sd.gov/behavioralhealth/community/involuntary.aspx>

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- https://dss.sd.gov/formsandpubs/docs/BH/ivc_brochure.pdf

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