

LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

INVOLUNTARY COMMITMENT AND GUARDIANSHIP LAWS FOR THOSE WITH SUBSTANCE USE DISORDERS

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Overview

Currently, 35 states and the District of Columbia have enacted involuntary commitment laws for those suffering from alcoholism and/or substance use disorders (SUDs).¹ The statutes vary widely between jurisdictions, although many include similar criteria that include: (1) dangerousness to oneself or others; (2) grave disability; (3) lack of decision-making capacity/incapacitation; (4) inability to manage personal affairs and take care of basic needs; and (5) loss of control/addiction. Who can petition the court to commit someone also varies, but common statutory requirements include that the person with the SUD or alcoholism must be evaluated by a medical professional, that the examining medical professional must certify, in writing, that the person needs intensive treatment, and that the certification must accompany the commitment petition. The length of time that an individual may be committed also varies among the jurisdictions, ranging from 24 hours to one year. Most states allow recommitment if the court orders that additional treatment is necessary.

In order to protect an individual's civil rights, each state ensures that the committed person receives due process by providing the person the right to an attorney during the commitment process. Moreover, every state grants the person the right to petition the court for a writ of habeas corpus. Other guaranteed rights include: (1) receiving a copy of the involuntary commitment petition; (2) receiving notice of the hearing date; (3) being present at the hearing; (4) presenting and cross-examining witnesses; (5) continuing communication with family, friends, an attorney, and the clergy; (6) sending and receiving uncensored mail; and (7) appealing an adverse ruling. Every state requires that the court must meet the requirements of detention by clear and convincing evidence.

Research indicates that involuntary treatment is likely as effective as voluntary treatment, but many who oppose involuntary commitment believe that the loss of someone's civil liberties due to an SUD outweighs any therapeutic value from such commitment. Opponents state that potentially impinging on a person's civil rights, overwhelming hospital emergency departments, unnecessarily confining people, and blurring the line between substance use treatment and incarceration are critical consequences of involuntary commitment.

Addiction professionals are quick to note that during confinement, the person must receive effective, evidence-based treatment. With respect to those with opioid use disorders (OUDs), many treatment professionals agree that medication-assisted treatment, offering all of the medications approved for OUDs, must be included. However, many facilities do not have access to, or money for, such medications, making the commitment ineffective. Involuntary commitment statutes do not mandate continuing treatment, after the individual is released, and since continuing court intervention and follow-up is the key to maintaining sobriety, the commitment may ultimately be ineffective.

¹ Rhode Island's involuntary commitment law only applies to those suffering from alcoholism, while Vermont's only applies to those with substance use disorders.

Review of State Laws

Alabama

Involuntary Commitment: Ala. Code § 22-52-1.1 specifically *excludes* substance abuse and alcoholism from its definition of mental illness with respect to involuntary commitment.

Guardianship: Ala. Code § 26-2A-20(8) defines an incapacitated person as anyone who is impaired due to “chronic use of drugs” or “chronic intoxication” with respect to guardianship.

*²Alaska

Involuntary Commitment: Alaska Stat. § 47.37.190 allows a spouse, guardian, relative, certifying physician, physician’s assistant, advanced practice registered nurse, or an administrator in charge of a public treatment facility to petition a court for a 30-day involuntary commitment order for someone who is “an alcoholic or drug abuser.” The petition must allege that the person: “(1) has threatened, attempted to inflict, or inflicted physical harm on another and that unless committed is likely to inflict physical harm on another; or (2) is incapacitated by alcohol or drugs.”

Arizona

Involuntary Commitment: Ariz. Rev. Stat. Ann. § 36-501 specifically *excludes* drug abuse and alcoholism from its definition of a mental disorder with respect to involuntary commitment.

Guardianship: Ariz. Rev. Stat. Ann. § 14-5101 defines an incapacitated person as anyone who is impaired due to “chronic use of drugs” or “chronic intoxication” so that he or she “lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his [or her] person.”

Arkansas

Involuntary Commitment: Ark. Code Ann. § 20-47-202 specifically *excludes* impairment solely caused by dependence on, or addiction to, any substance (*e.g.*, alcohol or drugs) from its definition of mental illness with respect to involuntary commitment.

Guardianship: Ark. Code Ann. § 28-65-101 defines an “incapacitated person” as someone who is impaired because of a disability, such as “chronic use of drugs, or chronic intoxication,” where the person lacks sufficient understanding or the capacity to make or communicate decisions that meet the essential requirements for his or her health or safety or to manage his or her finances with respect to guardianship.

² An asterisk next to the name of a jurisdiction indicates that it has an involuntary commitment statute that addresses substance use disorders.

*California

Involuntary Commitment: [Cal. Welf. & Inst. Code Ann. § 5201](#) allows anyone to file a petition requesting that an evaluation of a person's condition, due to a "mental disorder," be made because that a person is "a danger to others, or to him [or her]self, or is gravely disabled." [Cal. Welf. & Inst. Code Ann. § 5225](#) provides that when a criminal defendant is in court because of "chronic alcoholism or the use of narcotics or restricted dangerous drugs" and is deemed to be "a danger to others, to him [or her]self, or to be gravely disabled, the judge may order an evaluation of that person, where he or she may be detained up to 72 hours. Under [Cal. Welf. & Inst. Code Ann. § 5250](#), the person may be certified to be detained to receive up to an additional 14 days of intensive treatment under various conditions, including that the person is "a danger to others or to himself or herself or is gravely disabled" or the person "has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis." Moreover, [Cal. Welf. & Inst. Code Ann. § 5340](#) provides that the legislature intends to "provide legal procedures for the custody, evaluation, and treatment of users of controlled substances" but that it should not be construed that such a person is considered to suffer from a mental health disorder.

*Colorado

Involuntary Commitment: [Colo. Rev. Stat. Ann. § 27-81-112](#) allows specific "responsible" individuals, including the person's spouse, guardian, relative, or a physician," to file a petition to involuntarily commit someone to the office of behavioral health as long as the petition alleges that the person has an alcohol use disorder and has "threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by alcohol." Similarly, [Colo. Rev. Stat. Ann. § 27-82-108](#) allows specific "responsible" individuals to file a petition to involuntarily commit someone to the office of behavioral health as long as the petition alleges that the person "has a substance use disorder and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by drugs."

*Connecticut

Involuntary Commitment: [Conn. Gen. Stat. Ann. § 17a-685](#) allows specific individuals, including a spouse, conservator, or physician, to apply to the probate court to involuntarily commit someone to an inpatient treatment facility for alcohol or drug dependency and declare that the person is an alcohol or drug-dependent person "who is dangerous to himself or herself or dangerous to others when he or she is an intoxicated person or who is gravely disabled."

*Delaware

Involuntary Commitment: [Del. Code Ann. tit. 16 § 2211](#) allows anyone "with knowledge that an individual may be a person in need of treatment" to submit a written request concisely providing

the “observations, circumstances and knowledge of the requestor” for someone to be involuntarily committed to a “licensed residential treatment facility or outpatient treatment program” for evaluation and treatment, “as medically necessary and appropriate for a period not to exceed [two] working days” for alcohol or drug use.

*District of Columbia

Involuntary Commitment: [D.C. Code Ann. § 24-607](#) allows a court to involuntarily commit someone for inpatient treatment and care if the court determines that he or she is a chronic alcoholic and, as a result of chronic or acute intoxication, is “in immediate danger of substantial physical harm.” Similarly, [D.C. Code Ann. § 24-708](#) allows a court to find someone to be a drug user (defined as anyone who “uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction”³) and may commit him or her to a hospital for rehabilitation.

*Florida

Involuntary Commitment: [Fla. Stat. Ann. § 397.675](#) allows someone to be involuntarily committed if there is a good faith reason to believe that he or she is “substance abuse impaired” or has a co-occurring mental health disorder and, because of the impairment, has no self-control, in need of substance abuse services, has impaired judgment and is not capable of making a rational decision regarding his or her need for substance abuse services and is likely to suffer from neglect which poses a threat of harm to him or herself or others. Moreover, pursuant to [Fla. Stat. Ann. § 397.693](#), a court may order involuntary treatment for someone if the person meets the criteria set forth in [§ 397.675](#) and has been placed under protective custody, subject to an emergency admission, assessed by a professional, subject to involuntary assessment and stabilization, or subject to alternative involuntary admission.

*Georgia

Involuntary Commitment: [Ga. Code Ann. § 37-7-1](#) provides that an “alcoholic, drug dependent individual, or drug abuser” may be ordered into involuntary inpatient treatment if he or she “exhibits life-threatening levels of intoxication, withdrawal, or imminent danger thereof, or acute medical problems; or is under the influence of alcoholic beverages or drugs or any other substances . . . to the extent that the person is incapable of caring for himself or protecting himself due to the continued consumption or use thereof.”

*Hawaii

Involuntary Commitment: [Hawaii Rev. Stat. Ann. § 334-142](#) allows any family member to petition the court for an order of involuntary outpatient treatment for substance abuse or

³ [D.C. Code Ann. § 24-702.](#)

addiction if the conduct of the person “indicates substance abuse or addiction;” if the person has a “history of substance abuse, treatment, and relapse;” if the person’s conduct affects his or her family; if the petitioning family member has a good faith belief that the person poses an imminent danger to him or herself or to others if he or she does not receive treatment; if treatment for the person is available and the person has the financial resources to pay for it; and if there are any other reason to seek court intervention.

Idaho

Involuntary Commitment: [Idaho Code Ann. § 66-317](#) does not mention substance abuse or alcoholism in its definition of mentally ill⁴ with respect to involuntary commitment.⁵

Guardianship: [Idaho Code Ann. § 15-5-101](#) does not mention drugs or alcohol. It defines an incapacitated person as anyone who is impaired because he or she lacks the capacity to make or communicate responsible decisions (but does not include a developmental disability) and states that it is a legal, not a medical issue. It reads that a person who “has suffered, is suffering, or is likely to suffer, substantial harm due to an inability to provide for his personal needs for food, clothing, shelter, health care, or safety, or an inability to manage his or her property or financial affairs,” exclusive of isolated instances is deemed to be incapacitated.

Illinois

Involuntary Commitment: [Ill. Comp. Stat. Ann. ch. 405 § 5/1-129](#) specifically *excludes* a substance use disorder from its definition of mental illness with respect to involuntary commitment.

Guardianship: [Ill. Comp. Stat. Ann. ch. 755 § 5/11a-2](#) defines a person with a disability as someone who, because of excessive use of intoxicants or drugs, wastes his estate and exposes him or herself or family to want or suffering with respect to guardianship.

*Indiana

Involuntary Commitment: [Indiana Code § 12-23-11.1-1](#) provides that anyone who is “an alcoholic, incapacitated by alcohol, or a drug abuser” may be involuntarily committed except for a drug abuser who is charged with, or convicted of, an offense that makes the individual ineligible to receive treatment.

⁴ The Idaho statute defines someone who is mentally ill as someone who has a “substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize and adapt to reality” thereby requiring care and treatment.

⁵ It should be noted that [Idaho Code Ann. § 39-307A](#) allows a law enforcement officer to take someone who appears to be incapacitated by alcohol or drugs into protective custody and placed into a treatment facility for emergency treatment or to the city or county jail until a treatment facility but the confinement may not occur for longer than 24 hours.

*Iowa

Involuntary Commitment: [Iowa Code Ann. § 125.75](#) provides that any interested person may apply to a court to involuntarily commit someone with a “substance-related disorder” or who is “incapacitated by a chemical substance” to a treatment facility. The application must state the applicant's belief that the person is a danger to him or herself or others and lacks judgment due to a substance-related disorder (defined as “a diagnosable substance abuse disorder of sufficient duration to meet diagnostic criteria specified within the most current diagnostic and statistical manual of mental disorders . . . that results in a functional impairment”⁶) or because the person is incapacitated by a chemical substance (defined as due to the use of a chemical substance, the person is “unconscious or has the person's judgment otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to the need for treatment”⁷).

*Kansas

Involuntary Commitment: [Kan. Stat. Ann. § 59-29b46](#) allows a person with an alcohol or substance abuse problem (defined as someone who has an alcohol or substance abuse problem and is incapacitated by alcohol or any substance and “lacks self-control as to the use of alcoholic beverages or any substance” or “uses alcoholic beverages or any substance to the extent that the person's health may be substantially impaired or endangered without treatment” and “as the result of the use of alcohol or any substance, has impaired judgment resulting in the person being incapable of realizing and making a rational decision with respect to the need for treatment or lacking sufficient understanding or capability to make or communicate responsible decisions and is likely to cause harm to self or others without treatment”).⁸

*Kentucky

Involuntary Commitment: [KY Rev. Stat. Ann. §§ 222.430 and 222.431](#) provides that a spouse, relative, friend, or guardian of an individual suffering from substance use disorder may petition the court to order the person into involuntary treatment if that person “presents an imminent threat of danger to self, family, or others as a result of a substance use disorder, or there exists a substantial likelihood of such a threat in the near future; and can reasonably benefit from treatment.”

*Louisiana

Involuntary Commitment: [LA Rev. Stat. Ann. § 28:52.4](#) allows a parent, spouse, legal guardian, or a child who has attained the age of 18 of a person suffering from “a substance-related or addictive disorder” to apply for the person to be involuntarily admitted and detained at a hospital

⁶ [Iowa Code Ann. § 125.2](#).

⁷ *Id.*

⁸ It should be noted that Kansas has the Crisis Intervention Act ([Kan. Stat. Ann. §§ 59-29c01 to 59-29c14](#)) which allows counties to establish a 24-hour, seven-day per week, involuntary care center where a person in crisis may be involuntarily admitted for 72-hours for evaluation by behavioral health professionals in an attempt to avoid the court process.

or treatment facility for “observation, diagnosis, and treatment for a medically necessary period.” The application must contain “a written statement of facts, including personal observations, leading to the conclusion that the person is suffering from a substance-related or addictive disorder and is dangerous to him [or her]self or others or is gravely disabled, specifically describing any dangerous acts or threats, and stating that the person has been encouraged to seek treatment but is unwilling to be evaluated on a voluntary basis.”

*Maine

Involuntary Commitment: [ME Rev. Stat. Ann. tit. 34-B § 3801](#) defines a mentally ill person as someone with “a psychiatric or other disease that substantially impairs that person's mental health” including anyone suffering the “effects from the use of drugs, narcotics, hallucinogens or intoxicants, including alcohol.” Additionally, [ME Rev. Stat. Ann. tit. 34-B § 3864](#) allows a court to involuntarily commit a person and implement a treatment plan if the application for commitment contains information that the person “lacks the capacity to make an informed decision regarding treatment, is unable or unwilling to comply with recommended treatment, that the need for the treatment outweighs the risks and side effects, and that the recommended treatment is the least intrusive appropriate treatment option.”

Maryland

Involuntary Commitment: [Md. Health Gen. Code Ann. § 10-101](#) defines “behavioral health care” as including “prevention, screening, early intervention, treatment, recovery, support, wraparound, and rehabilitation services for individuals with substance-related disorders, addictive disorders, mental disorders, or a combination of these disorders” with respect to the mental health.

Guardianship: [Md. Trusts and Estates Code Ann. § 13-201](#) defines a disabled person as someone who is not able to manage his or her property and affairs because of habitual drunkenness or addiction to drugs with respect to guardianship.

*Massachusetts

Involuntary Commitment: [Mass. Gen. Laws Ann. ch. 123 § 35](#) allows “any police officer, physician, spouse, blood relative, guardian, or court official” to petition the court for an order of involuntary commitment of a person whom he or she believes has an alcohol or substance use disorder.⁹

⁹ Defined respectively in the statute as “chronic or habitual consumption of alcoholic beverages by a person to the extent that: (1) such use substantially injures the person’s health or substantially interferes with the person’s social or economic functioning; or (2) the person has lost the power of self-control over the use of such beverages and “the chronic or habitual consumption or ingestion of controlled substances or intentional inhalation of toxic vapors by a person to the extent that: (1) such use substantially injures the person’s health or substantially interferes with the person’s social or economic functioning; or (2) the person has lost the power of self-control over the use of such controlled substances or toxic vapors.”

*Michigan

Involuntary Commitment: [Mich. Comp. Laws Ann. § M.C.L.A. 330.1281a](#) provides that a spouse, family member, guardian, or health professional may initiate proceedings in court for the involuntary commitment of a person who has a substance use disorder that has been verified by a health professional, presents an imminent danger or imminent threat of danger (or a substantial likelihood of the threat of danger in the near future) to him or herself or others as a result of the substance use disorder, and can reasonably benefit from treatment.

*Minnesota

Involuntary Commitment: [Minn. Stat. Ann. § 253B.064](#) allows any “interested person”¹⁰ to apply to a specified agency for early intervention of a person who is alleged to be “chemically dependent (defined as someone who is not capable of self-management due to habitual use of alcohol, drugs, or other mind-altering substances (this includes a pregnant woman who uses substances during her pregnancy))”¹¹ and whose conduct poses a likelihood of physical harm to him or herself or others. If the agency determines that early intervention is necessary, it is required to prepare a prepetition screening report.

*Mississippi

Involuntary Commitment: [Miss. Code Ann. § 41-31-3](#) allows a “husband, wife, child, mother, father, next of kin, or any friend or relative thereof, or the county health officer” to apply to place a person, “alleged to be an alcoholic or drug addict,” into involuntary detention and treatment, and the application must demonstrate that because of his or her alcoholism or drug addiction, the person is incapable of taking care of his or her affairs, or is dangerous to him or herself or others, or “has lost the power of self-control because of periodic, constant or frequent use of alcoholic beverages or habit-forming drugs, and that he is in need of care and treatment, and that his detention, care and treatment at an institution will improve his health.”

*Missouri

Involuntary Commitment: [Mo. Ann. Stat. § 631.115](#) allows any adult to apply to the circuit court for the detention, treatment, and rehabilitation in an alcohol or drug abuse facility of a person who is likely to seriously harm him or herself or others because of alcohol, drug abuse, or both.

¹⁰ [Defined in Minn. Stat. Ann. § 253B.02](#) as any “adult, including but not limited to, a public official. . . and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient” or a health plan under which the proposed patient is covered.

¹¹ [Minn. Stat. Ann. § 253B.02](#).

Montana

Involuntary Commitment: [Mont. Code Ann. § 53-21-102](#) specifically *excludes* “addiction to drugs or alcohol and drug or alcohol intoxication” in its definition for a mental disorder with respect to involuntary commitment.

Guardianship: [Mont. Code Ann. § 72-5-101](#) defines an incapacitated person as someone who is impaired by “chronic use of drugs or chronic intoxication” so the person lacks the capacity to make or communicate responsible decisions or causes his or her judgment to be so impaired that he or she is incapable of realizing and making a rational decision with respect to the person's need for treatment, with respect to guardianship.

*Nebraska

Involuntary Commitment: [Neb. Rev. St. Ann. § 71-921](#) allows anyone to apply, through the county attorney, to a district court to have a “mentally ill and dangerous person” (defined as a someone who is “substance dependent”¹² and presents a substantial risk of serious harm to him or herself or others or is violent, threatens suicide, or is unable to provide for his or her basic human needs¹³) involuntarily hospitalized or sent to treatment. The application must contain a number of things, including information about the person’s past treatment; that the county attorney has probable cause to believe that the person is “mentally ill and dangerous;” the specific behavior, acts, attempts, or threats of the person; and information about anyone who has knowledge about the person’s substance dependence.

Nevada

Involuntary Commitment: [Nev. Rev. Stat. § 433A.115](#) specifically *excludes* in its definition of mental illness someone who has diminished capacity caused by alcohol or drugs or dependence on, or addiction to, alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person, with respect to involuntary commitment.

Guardianship: [Nev. Rev. Stat. § 159.019](#) does not mention drugs or alcohol. It defines an incapacitated person as someone who is not able “to receive and evaluate information or make or communicate decisions to such an extent that the person lacks the ability to meet essential requirements for physical health, safety, or self-care without appropriate assistance.”

¹² Defined in [Neb. Rev. St. Ann. § 71-913](#) as someone with “a behavioral disorder that involves a maladaptive pattern of repeated use of controlled substances, illegal drugs, or alcohol, usually resulting in increased tolerance, withdrawal, and compulsive using behavior and including a cluster of cognitive, behavioral, and physiological symptoms involving the continued use of such substances despite significant adverse effects resulting from such use.”

¹³ [Neb. Rev. St. Ann. § 71-908](#).

New Hampshire

Involuntary Commitment: [N.H. Rev. Stat. Ann. § 135-C:2](#) specifically *excludes* “continuous or noncontinuous periods of intoxication caused by substances such as alcohol or drugs” and “dependence upon or addiction to any substance such as alcohol or drugs” with respect to involuntary commitment.

Guardianship: [N.H. Rev. Stat. Ann. § 464-A:2](#) does not mention drugs or alcohol. It defines incapacity as a legal, not a medical, disability and refers to anyone “who has suffered, is suffering, or is likely to suffer substantial harm due to an inability to provide for” his or her “personal needs for food, clothing, shelter, health care, or safety or an inability to manage his or her property or financial affairs.”

New Jersey

Involuntary Commitment: [N.J. Stat. Ann. § 30:4-27.2](#) specifically *excludes* “alcohol intoxication” and a “transitory reaction to drug ingestion” from its definition of mental illness with respect to involuntary commitment.¹⁴

Guardianship: [N.J. Stat. Ann. § 3B:1-2](#) defines an incapacitated individual as someone who is impaired by “chronic use of drugs or alcoholism” so the person lacks the capacity to govern him or herself and manage his or her affairs with respect to guardianship.

New Mexico

Involuntary Commitment: [N.M. Stat. Ann. § 24-7B-3](#) does not mention drugs or alcohol with respect to its definition of mental illness¹⁵ for involuntary commitment.¹⁶

Guardianship: [N.M. Stat. Ann. § 45-5-101](#) defines an incapacitated person as anyone who demonstrates “functional impairment” due to chronic use of drugs or chronic intoxication where the person is unable to manage his or her personal affairs, financial affairs, or estate with respect to guardianship.

New York

Involuntary Commitment: [N.Y. Mental Hygiene Law § 1.03](#) provides that an “addictive or addiction disorder” includes a substance use disorder and an “addiction treatment facility or and “alcoholism facility” is a licensed “in-patient, residential or outpatient facility” that provides

¹⁴ It should be noted that [N.J. Stat. Ann. § 26:2B-16](#) allows “a police officer or other authorized person” to assist someone who is “intoxicated in a public place to “an intoxication treatment center or other facility.”

¹⁵ The statute defines mental illness as a “substantial disorder of a person's emotional process, thoughts or cognition that grossly impairs judgment, behavior or capacity to recognize reality.”

¹⁶ It should be noted that [N.M. Stat. Ann. 1978 § 43-2-8](#) provides that in some circumstances, an authorized person may request that “an intoxicated or incapacitated person be committed to a treatment facility” for the purpose of protective custody.

addiction disorder services to those suffering from addictive disorders with respect to involuntary commitment.

Guardianship: [N.Y. Mental Hygiene Law § 81.03](#) defines someone with functional limitations as anyone whose behavior or conditions impair his or her ability to provide for personal needs (*i.e.*, food, clothing shelter, health care, or safety) or property management and includes an assessment of any mental disability, including alcoholism or substance and the prognosis of the alcoholism or substance dependence with respect to guardianship.

*North Carolina

Involuntary Commitment: [N.C. Gen. Stat. Ann. § 122C-281](#) allows anyone with knowledge of a substance abuser who is dangerous to him or herself or to others to file a petition to take a person into custody for an examination by a “commitment examiner.” The petition must include information about the person’s behavior leading to the petition. If there are reasonable grounds to believe that the facts alleged in the petition are true and that the person is a substance abuser and dangerous to him or herself or other, a law enforcement officer may take the person into custody.

*North Dakota

Involuntary Commitment: [N.D. Cent. Code Ann. § 25-03.1-08](#) allows anyone who is 18 or older to submit a petition to the state’s attorney of the appropriate county to have a person sent to involuntary treatment as long as the person is someone who is in need of treatment and the petition is accompanied by a written statement from an addiction counselor. The petition must contain assertions from others who are witnesses to the person’s behavior that demonstrates that the person is a “person requiring treatment.”

*Ohio

Involuntary Commitment: [Ohio Rev. Code Ann. §§ 5119.92 and 5119.93](#) provide that a “spouse, relative, or guardian” of someone may file a petition in court for the involuntary treatment of a person suffering from alcohol and other drug abuse, as long as the person presents an imminent danger or imminent threat of danger (now or in the future) to him or herself, family, or others as a result of alcohol and other drug abuse, and the person can reasonably benefit from treatment.

*Oklahoma

Involuntary Commitment: [Okla. Stat. Ann. tit. 43A, §5-410](#) allows a number of specified individuals over the age of 18 to file a petition to involuntarily commit a person if that person “is a person requiring treatment” (defined as someone who, due to his or her drug or alcohol dependency, poses an immediate risk of physical harm to him or herself or others, has placed another person in fear of violent behavior, “is in a condition of severe deterioration such that, without immediate intervention, there exists a substantial risk that severe impairment or injury will result to the person,” or poses a substantial risk of immediate death¹⁷). The petition must

¹⁷ [Okla. Stat. Ann. tit. 43A, §§ 1-103.](#)

contain a statement of the facts upon which the allegation is based and a list of witnesses to the alleged facts.

Oregon

Involuntary Commitment: [Or. Rev. Stat. Ann. § 426.495](#), specifically *excludes* from the definition of mental illness someone who suffers from a substance use disorder.¹⁸

Guardianship: [Or. Rev. Stat. Ann. § 125.005](#) defines “financially incapable” as someone who is not able to manage his or her financial resources (*i.e.*, administer and dispose of real and personal property, intangible property, business property, benefits, and income) because of chronic use of drugs or controlled substances and chronic intoxication. However, the statute does *not* mention drugs or alcohol when defining someone who is incapacitated, whereby the “person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person lacks the capacity to meet the essential requirements” (*i.e.*, health care, food, shelter, clothing, personal hygiene, and physical health and safety), with respect to guardianship.

*Pennsylvania

Involuntary Commitment: [Pa. Stat. & Cons. Stat. tit. 71 §§ 1690.101, 1690.102, and 1690.105](#) provides that an involuntary commitment for a drug dependent person (defined as someone who uses drugs, controlled substances, or alcohol and is dependent on the substances on a continuing basis) be made in accordance with the procedures set forth in the Mental Health Procedures Act. Those procedures, pursuant to [Pa. Stat. & Cons. Stat. tit. 50 § 7301](#), provide that a person is in need of involuntary treatment when, due to his or her substance use disorder, the person’s “capacity to exercise self-control, judgment, and discretion in the conduct of his [or her] affairs and social relations or to care for his [or her] own personal needs is so lessened that he poses a clear and present danger of harm” to him or herself or others.

*Rhode Island

Involuntary Commitment: [R.I. Gen. Laws Ann. § 23-1.10-10](#) specifically mentions *alcohol only* with respect to involuntary commitment, providing that a police officer must bring anyone “who appears to be incapacitated by alcohol” into protective custody and brought to a treatment facility for *emergency* treatment, if one is available. If not, the person must be taken to an emergency medical service for incapacitated persons unless it is impracticable to take the person to the treatment facility, whereby the police may take him or her into “protective custody, in the police station, in suitable quarters, for a reasonable time.”

Guardianship: [R.I. Gen. Laws Ann. § 33-15.2-102](#) does not mention drugs or alcohol in its definition of incapacitated person with respect to guardianship.

¹⁸ It should be noted that [Or. Rev. Stat. Ann. § 430.399](#) provides that a police officer must take anyone “who is intoxicated or under the influence of controlled substances in a public place” and is incapacitated to a treatment or sobering facility.

*South Carolina

Involuntary Commitment: [S.C. Code Ann. § 44-52-70](#) allows any adult or head of a treatment facility to file a petition with the court in the appropriate county to involuntarily commit a person who is alleged to be “chemically dependent” (defined as someone who is suffering from chemical dependency demonstrated by overt or recent acts of violence, episodes of serious physical problems related to the habitual and excessive use of drugs or alcohol, or incapacitation by drugs or alcohol on a “habitual and excessive basis” as evidenced by numerous and recent court appearances, repeated incidences involving law enforcement, multiple prior treatment attempts, or testimony by family or by members of the community known to the person relating to a lifestyle adversely affected by alcohol or drugs¹⁹).

*South Dakota

Involuntary Commitment: [S.D. Codified Laws § 34-20A-70](#) allows a spouse, guardian, relative, physician, administrator of an approved treatment facility, or “any other responsible person” to apply to the circuit court to involuntarily commit a person who is alleged to be an “alcoholic or drug abuser.”²⁰ The application must contain information about the person’s alcohol or drug abuse, demonstrating that the person habitually lacks self-control with respect to the use of alcoholic beverages or other drugs and has “threatened, attempted, or inflicted physical harm on himself or herself or on another and that unless committed, is likely to inflict harm on himself or herself or on another, is incapacitated by the effects of alcohol or drugs, or is pregnant and abusing alcohol or drugs.”

*Tennessee

Involuntary Commitment: [Tenn. Code Ann. §§ 33-6-502 and 33-6-504](#) allow various people to file a complaint for the involuntary care and treatment of a person with a mental illness (defined as someone with alcohol or drug dependence²¹) if the person poses a substantial likelihood of serious harm due to the mental illness; the person needs care, training, or treatment because of the mental illness; and all available and “less drastic alternatives to placement in a hospital or treatment resource” do not meet, or have not met, the needs of the person.

*Texas

Involuntary Commitment: [Tex. Health & Safety Code § 462.062](#) allows “a county or district attorney or other adult” to apply for court-ordered, involuntary treatment of a person with an alleged “chemical dependency” (defined as someone who abuses, has an addiction to, or has a

¹⁹ [S.C. Code Ann. 1976 § 44-52-10](#).

²⁰ Pursuant to [S.D. Codified Laws § 34-20A-2](#), an “alcoholic,” is defined as someone “who habitually lacks self-control as to the use of alcoholic beverages or uses alcoholic beverages to the extent that the person's health is substantially impaired or endangered or the person's social or economic function is substantially disrupted; and a “drug abuser,” is someone “who habitually lacks self-control as to the use of controlled drugs or substances . . . to the extent that the person's health is substantially impaired or endangered or that the person's social or economic function is substantially disrupted.”

²¹ [Tenn. Code Ann. § 33-1-101](#).

psychological or physical dependence on alcohol or a controlled substance²²) and is likely to cause serious harm to him or herself or others or will continue to suffer mental, emotional, or physical distress, causing him or her to deteriorate in his or her ability to function independently if not treated and is unable to make a rational and informed choice as to whether to submit to treatment.

Utah

Involuntary Commitment: [Utah Code Ann. § 62A-15-602](#) does not mention drugs or alcohol in its definition of mental illness²³ with respect to involuntary commitment.

Guardianship: [Utah Code Ann. § 75-5b-102](#) does not mention drugs or alcohol with respect to guardianship.

*Vermont

Involuntary Commitment: [Vt. Stat. Ann. tit. 18 § 8402](#) allows an “interested party” to involuntarily commit a “drug addict” (defined as someone who “shows signs of mental illness because of his or her use of drugs, hallucinogens, stimulants, or sedatives or who has an uncontrollable desire for their use or consumption”²⁴) to a hospital for care and treatment. There is no mention of alcohol with respect to involuntary commitment.

*Virginia

Involuntary Commitment: [Va. Code Ann. §§ 37.2-800](#) and [37.2-801](#) provide that anyone who has a “mental illness” (defined as including “substance use”) that warrants treatment in a facility may be admitted to a facility with respect to involuntary commitment.

*Washington

Involuntary Commitment: [Wash. Rev. Code Ann. §§ 71.05.020](#) and [71.05.160](#) allows a “designated crisis responder” (defined as a mental or behavioral health professional) to submit a petition for the involuntary detention of a person suffering from alcoholism or a “drug addiction.” The petition must state how the responder learned about the person's condition, that the responder personally observed or investigated the claim against the person, and the specific facts of the allegation. The petition must allege that the actions of the person for which the application is made constitute a likelihood of serious harm, or that the person is gravely disabled (defined as being in danger of serious physical harm as a result of his or her not providing for his or her essential human needs or being severely deteriorated in routine function).

²² [Tex. Health & Safety Code §§ 462.001](#).

²³ The Utah statute defines mental illness as “a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning” as defined in the Diagnostic and Statistical Manual of Mental Disorders or the International Statistical Classification of Diseases and Related Health Problems.

²⁴ [Vt. Stat. Ann. tit. 18 § 8401](#).

*West Virginia

Involuntary Commitment: [W. Va. Code § 27-5-2](#) allows any adult to apply to the circuit court or a mental hygiene commissioner of the appropriate county for involuntary hospitalization of a person who the applicant believes is “addicted” (defined as “a maladaptive pattern of substance use” (to include alcohol and drugs) that leads to significant impairment manifested by recurrent substance use resulting in a failure to fulfill major role obligations at work, school or home; recurrent use in situations in which it is physically hazardous; recurrent substance-related legal problems; or continued use despite knowledge or having persistent or recurrent social or interpersonal problems due to the substance(s)²⁵) and, because of the addiction, the person will likely cause harm to him or herself or others. The application must include facts demonstrating why the person is “addicted.”

*Wisconsin

Involuntary Commitment: [Wis. Stat. Ann. § 51.20](#) allows an individual to petition the court to involuntarily commit a person who is drug dependent (defined as having a disease that is characterized by that person's inability to control use of one or more drugs where the person's “physical health is substantially impaired or his or her social or economic functioning is substantially disrupted”²⁶) and considers the person a danger to him or herself or others as manifested by evidence of recent threats of, or attempts at, suicide or serious bodily harm or violent behavior and overt physical acts; sees the person using impaired judgment; sees that the person is not able to satisfy basic needs for nourishment, medical care, shelter, or safety; and sees a strong probability that the person is in danger of “death, serious physical injury, serious physical debilitation, or serious physical disease.”

Wyoming

Involuntary Commitment: [Wyo. Stat. Ann § 25-10-101](#) specifically *excludes* drugs or alcohol and drug or alcohol intoxication from its definition of mental illness with respect to involuntary commitment.

Guardianship: [Wyo. Stat. Ann § 3-1-101](#) defines an incompetent person as anyone who is unable to take care of him or herself or his or her property because of the use of alcohol or controlled substances with respect to guardianship.

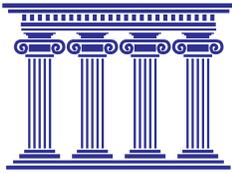
²⁵ [W. Va. Code § 27-1-11.](#)

²⁶ [Wis. Stat. Ann. § 51.01.](#)

ABOUT THE LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

Based in Washington D.C., and led by and comprised of experienced attorneys, the Legislative Analysis and Public Policy Association is a 501(c)(3) nonprofit organization whose mission is to conduct legal and legislative research and analysis and draft legislation on effective law and policy in the areas of public safety and health, substance use disorders, and the criminal justice system.

LAPPA produces timely model laws and policies that can be used by national, state, and local public health, public safety, and substance use disorder practitioners who want the latest comprehensive information on law and policy as well as up-to-the-minute comparative analyses, publications, educational brochures, and other tools ranging from podcasts to fact sheets. Examples of topics on which LAPPA has assisted stakeholders include naloxone laws, law enforcement/community engagement, alternatives to incarceration for those with substance use disorders, medication-assisted treatment in correctional settings, and the involuntary commitment and guardianship of individuals with alcohol or substance use disorders.



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