

# THE LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

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## Legal Landscape of Involuntary Commitment for Substance Use Disorder

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# **ABOUT LAPPA**

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.

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# INVOLUNTARY COMMITMENT

- A legal process by which a judge may order an individual with symptoms of a serious mental illness or substance use disorder (SUD) to undergo treatment against the individual's wishes
- Legally justified through the principles of *parens patriae* and a **state's police power**
  - *Parens patriae* - a legal doctrine that allows a state to act in *loco parentis* ("in the place of a parent") on behalf of its citizens when they are incapable of acting on their own behalf
  - State's police power - state has the authority to limit an individual's autonomy to the extent that it is necessary to protect its citizens from harm and ensure public safety

# INVOLUNTARY COMMITMENT

- **O' Connor v. Donaldson** (422 U.S. 563 (1975))
  - Unconstitutional to confine a non-dangerous individual who is capable of surviving safely independently or with the help of a willing and responsible adult
  - Unconstitutional to keep an individual involuntarily committed once he or she is no longer at risk of danger to him or herself or others
- **Addington v. Texas** (441 U.S. 418 (1979))
  - “Clear and convincing evidence” is the required legal standard for involuntary commitment cases.

# CONTROVERSIAL PRACTICE

## Support of practice:

- Provides parents/relatives/friends with a means of intervention
- Saves lives in urgent and immediate life-threatening situations
- Avoids criminal justice involvement
- Places individuals on path toward recovery

## Opposition of practice:

- Exacerbates trauma
- Fosters a mistrust of healthcare systems and practitioners
- Makes individuals less willing to seek treatment in the future
- Antithetical to the medical principles of patient consent and autonomy

# INVOLUNTARY COMMITMENT IN THE NEWS



↳ PRESIDENTIAL ACTIONS

## ENDING CRIME AND DISORDER ON AMERICA'S STREETS

Executive Orders | July 24, 2025

<https://www.whitehouse.gov/presidential-actions/2025/07/ending-crime-and-disorder-on-americas-streets/>

## Mayor Adams Announces New Proposal to Further Support New Yorkers Struggling With Substance Use Disorder, Address Public Drug Use

August 14, 2025

<https://www.nyc.gov/mayors-office/news/2025/08/mayor-adams-announces-new-proposal-to-further-support-new-yorker>

# INVOLUNTARY COMMITMENT

LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

INVOLUNTARY COMMITMENT OF THOSE WITH SUBSTANCE USE DISORDER:  
SUMMARY OF STATE LAWS

DECEMBER 2024



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<https://legislativeanalysis.org/involuntary-commitment-of-those-with-substance-use-disorders-summary-of-state-laws-with-substance-use-disordersnvoluntary-commitment-and-guardianship-laws-pdf/>



# INVOLUNTARY COMMITMENT - CRITERIA

- SUD should be severe
  - Use of substances or the diagnosis of SUD alone is not a justification
  - Risk of overdose alone is not a justification
- Some states specifically state in their laws that an individual's refusal to undergo treatment alone does not constitute evidence of his or her lack of judgment or inability to make a rational decision
- Dangerousness standard
  - Must be threat of harm to self or others
  - Critics of involuntary commitment argue it should be limited to a grave risk of imminent physical harm to self or others
  - Some states allow risk of serious emotional injury as well
- States also increasingly considering the presence of a “grave disability” or “serious deterioration”

# INVOLUNTARY COMMITMENT- CRITERIA EXAMPLES

## Casey's Law - Kentucky

KY. REV. STAT. ANN. § 222.431 (West 2025)

No person suffering from substance use disorder shall be ordered to undergo treatment unless that person:

- (1) Suffers from substance use disorder;
- (2) 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
- (3) Can reasonably benefit from treatment.

# INVOLUNTARY COMMITMENT- CRITERIA EXAMPLES

## Marchman Act - Florida

### FLA. STAT. ANN. § 397.675 (West 2025)

A person meets the criteria for involuntary admission if there is good faith reason to believe that the person is substance abuse impaired or has a substance use disorder and a co-occurring mental health disorder and, because of such impairment or disorder:

- (1) Has lost the power of self-control with respect to substance abuse; and
- (2)(a) Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that he or she is incapable of appreciating his or her need for such services and of making a rational decision in that regard, although mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services; or
- (b) Without care or treatment, is likely to suffer from neglect or refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that it is not apparent that such harm may be avoided through the help of willing, able, and responsible family members or friends or the provision of other services, or there is substantial likelihood that the person has inflicted, or threatened to or attempted to inflict, or, unless admitted, is likely to inflict, physical harm on himself, herself, or another.

# INVOLUNTARY COMMITMENT - CRITERIA EXAMPLES

## Massachusetts

### MASS. GEN. LAWS ANN. ch. 123 § 35 (WEST 2025)

Individual can be involuntarily committed if he or she has an alcohol or substance use disorder and there is a likelihood of serious harm as a result of the individual's alcohol or substance use disorder

“Likelihood of serious harm”, (1) a substantial risk of physical harm to the person himself as manifested by evidence of, threats of, or attempts at, suicide or serious bodily harm; (2) a substantial risk of physical harm to other persons 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 as manifested by evidence that such person's judgment is so affected that he is unable to protect himself in the community and that reasonable provision for his protection is not available in the community. MASS. GEN. LAWS ANN. ch. 123 § 1 (West 2025)

# INVOLUNTARY COMMITMENT - CRITERIA EXAMPLES

## New York

### N.Y. MENTAL HYG. § 9.01 (McKinney 2024)

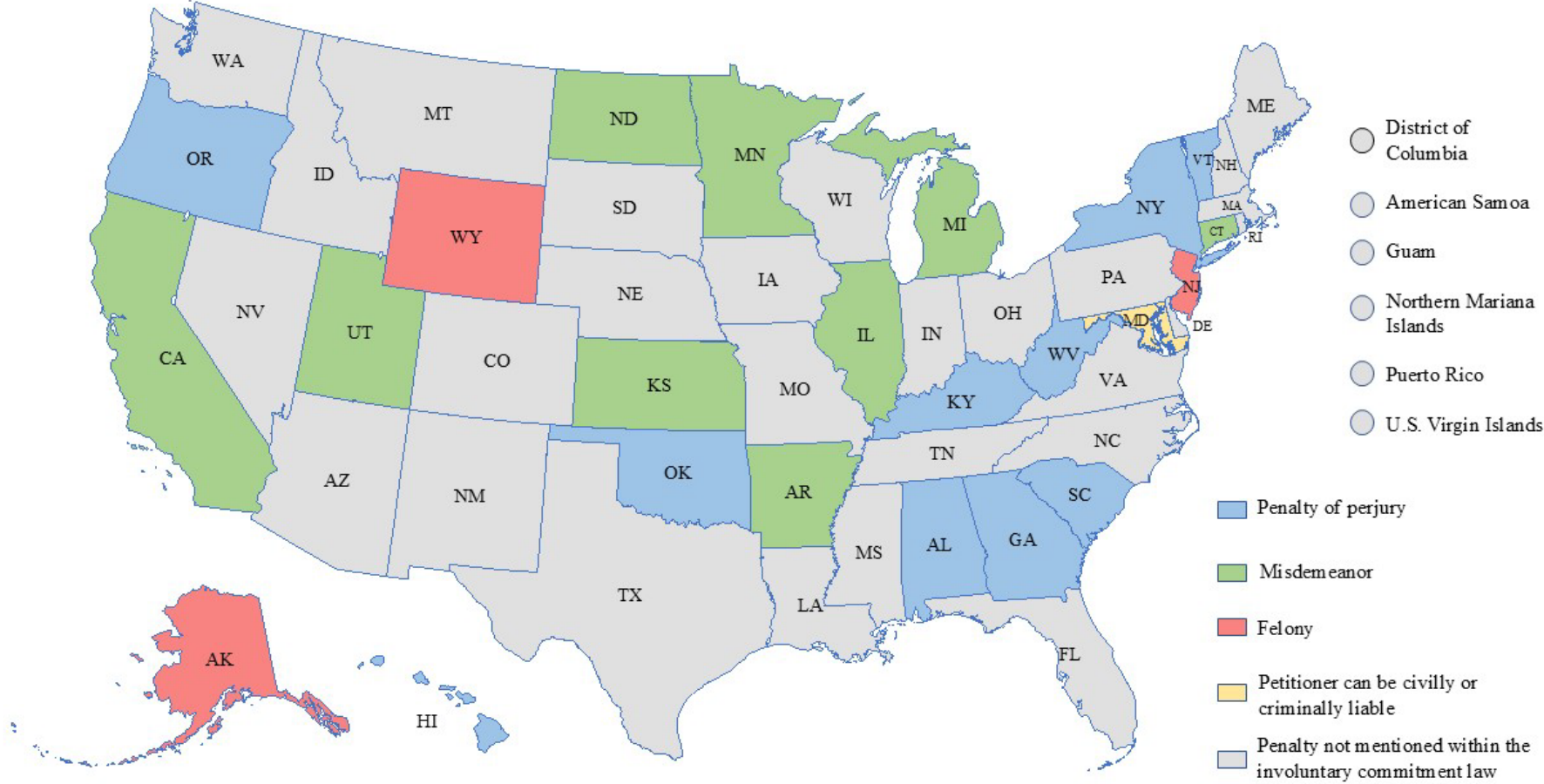
(c) “likelihood to result in serious harm” or “likely to result in serious harm” means 1. a substantial risk of physical harm to the person as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that the person is dangerous to themselves, or 2. a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm, or 3. a substantial risk of physical harm to the person due to an inability or refusal, as a result of their mental illness, to provide for their own essential needs such as food, clothing, necessary medical care, personal safety, or shelter.

# INVOLUNTARY COMMITMENT - PETITIONERS

- Who can file a petition for involuntary commitment varies greatly by jurisdiction
- In 26 states and four territories, any adult can file a petition for involuntary commitment
- In jurisdictions that limit who can petition, they commonly include:
  - Spouse, parent, adult sibling, adult child, or legal guardian or conservator of the respondent
  - An adult who resides with the respondent
  - Healthcare practitioners or behavioral health professionals who provide care to the respondent
  - Law enforcement officials

# INVOLUNTARY COMMITMENT - FALSE PETITIONS

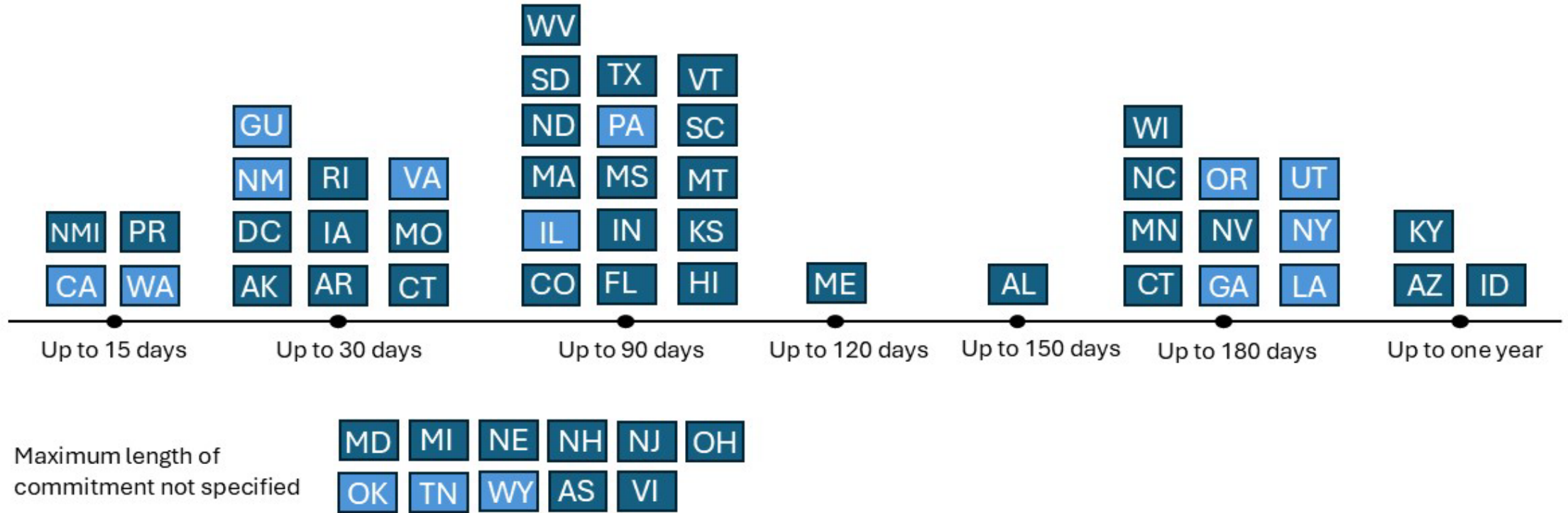
Involuntary Commitment Laws: Penalty for Filing a False Petition



24 states specifically delineate within their involuntary commitment laws a penalty for filing a false petition for involuntary commitment

# INVOLUNTARY COMMITMENT - LENGTH OF COMMITMENT

## Involuntary Commitment Laws: Maximum Length of Involuntary Commitment

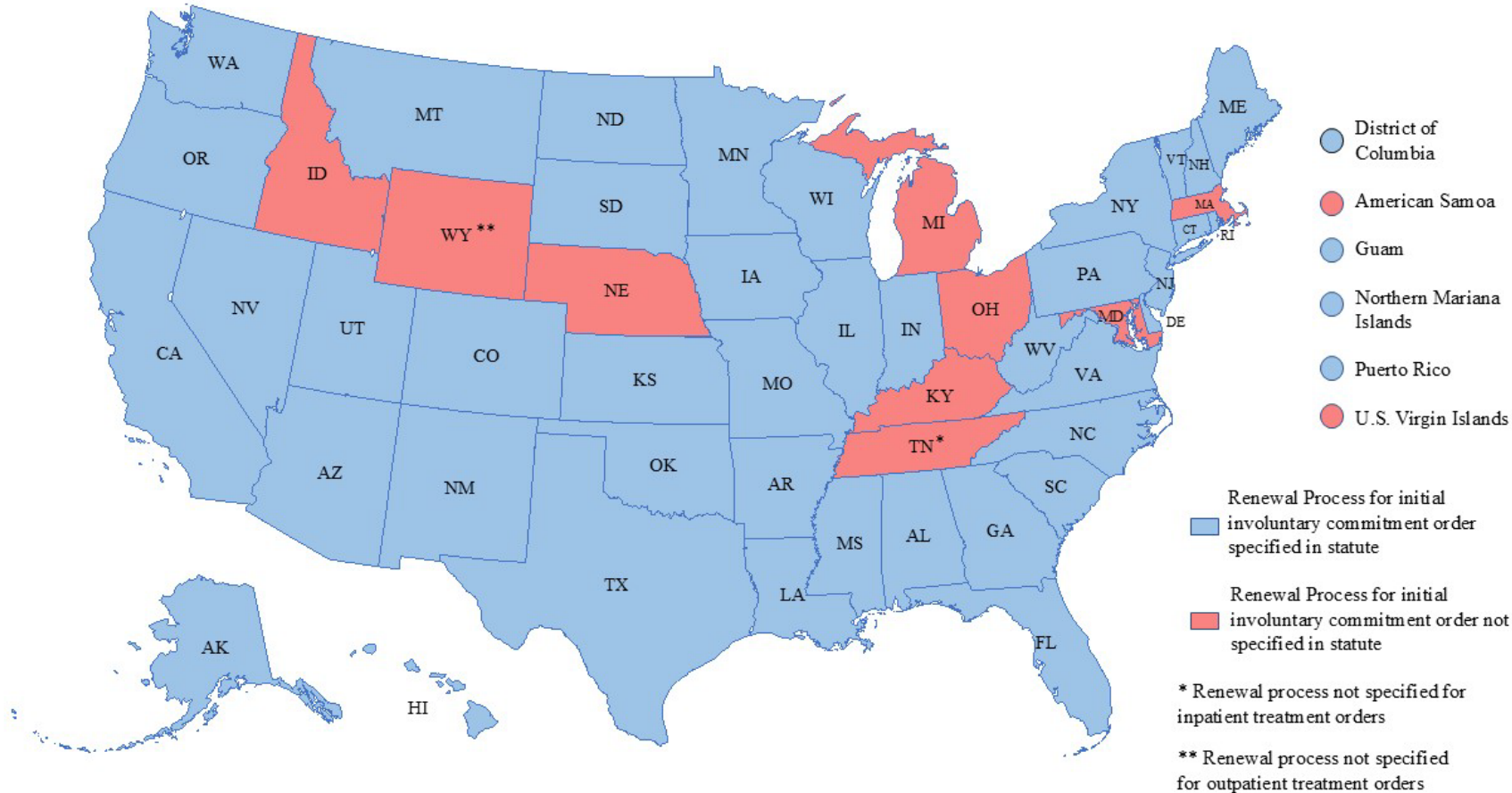


- Maximum involuntary commitment length applies to both inpatient and outpatient treatment
- Different maximum commitment length for outpatient treatment

\*As of December 2024

# INVOLUNTARY COMMITMENT- RENEWAL

Involuntary Commitment Laws: Renewal of an Initial Commitment Order



41 states, the District of Columbia, Guam, Puerto Rico, and the Northern Mariana Islands have a process for renewing an order of involuntary commitment if the respondent needs of additional treatment beyond the initial treatment period

\*As of December 2024

# INVOLUNTARY COMMITMENT - COST OF TREATMENT

- Who pays for involuntary treatment?
  - Petitioner
  - Respondent
  - Medicaid/Medicare/Private insurance
  - County/State
- Public vs. Private treatment centers

# INVOLUNTARY COMMITMENT - COST OF TREATMENT

- **Arizona** - When a patient is given court ordered treatment, the patient must pay all of such portion of the established charges as the patient can afford. If the patient is indigent, no charges should be made against the patient. ARIZ. REV. STAT. ANN. § 36-545.05 (West 2025).
- **Florida** - The court may order a respondent to undergo treatment through a privately funded licensed service provider instead of a publicly funded licensed service providers if the respondent has the ability to pay for the treatment or if any person on the respondent's behalf voluntarily demonstrates a willingness and an ability to pay for the treatment. FLA. STAT. ANN. § 397.697 (West 2025).

# INVOLUNTARY COMMITMENT - COST OF TREATMENT

- **Kentucky** - Any petition filed must be accompanied by a guarantee signed by the petitioner obligating that person to pay all costs for treatment of the respondent for substance use disorder that is ordered by the court. KY. REV. STAT. ANN. § 222.432 (West 2025).
- **Washington** - If the respondent is unable to pay for such treatment or if payment would result in a substantial hardship upon the respondent or his or her family, then the county of residence of such person or, if unknown, the county where the person was originally detained shall be responsible for such costs. WASH. REV. CODE ANN. 71.05.100 (West 2025).

# INVOLUNTARY COMMITMENT FOR SUD MODEL ACT



- Provides jurisdictions with a framework for the involuntary commitment of individuals with SUD that restricts the use of involuntary commitment to specific circumstances and includes protective policies and procedures for the individual
- Provides consistency among involuntary commitment for SUD laws across jurisdictions to allow for standardized research and data on the practice



# QUESTIONS?

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