

Legal Landscape of Involuntary Commitment for Substance Use Disorder

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Exploring the Intersection between Civil Commitment and
Homelessness Prevention – Expert Panel

June 2, 2026



About LAPPA

- 501(c)(3) nonprofit organization whose mission is to conduct legal and legislative research and analysis and draft model legislation on effective law and policy in the areas of public safety and health, substance use disorders, and the criminal justice system
- ONDCP's Model Acts Program Grant recipient since 2019



Homelessness and SUD

- In 2024, over 770,000 experienced homelessness during a single point-in-time
- SUD is more common among unhoused individuals as compared to those who are housed
- Bidirectional relationship between SUD and homelessness

Involuntary Commitment for SUD vs. Mental Illness

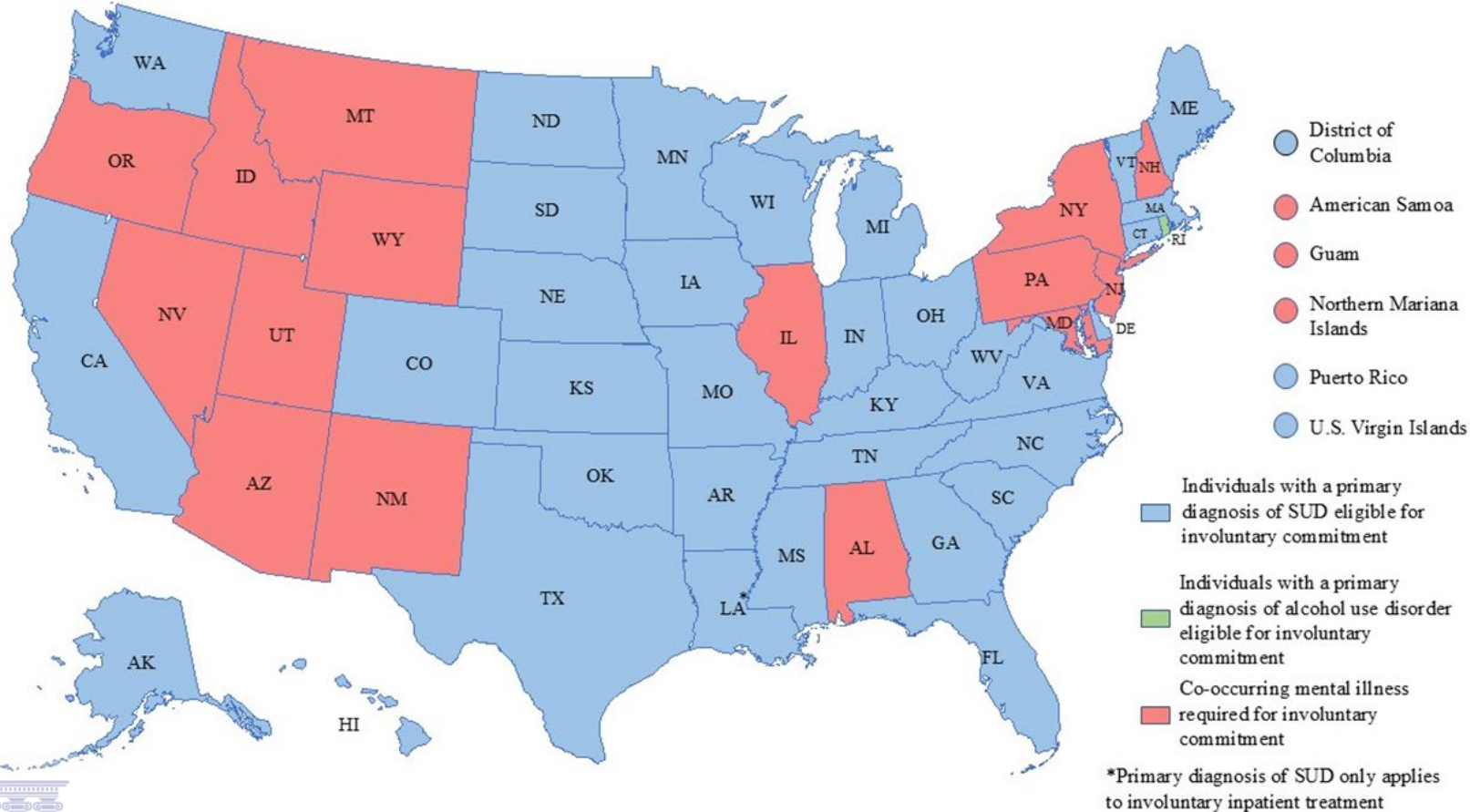
Involuntary Commitment for SUD



<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 for SUD

Involuntary Commitment Laws: Primary Diagnosis of SUD Eligible for Commitment



- Primary diagnosis of SUD eligible for involuntary commitment in 34 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands*
- Co-occurring mental illness required for involuntary commitment in 15 states, American Samoa, Guam, and the Northern Mariana Islands
- Rhode Island allows involuntary commitment for individuals with a primary diagnosis of alcohol use disorder only

*As of December 2024

Involuntary Commitment for SUD - 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

Involuntary Commitment for SUD - Criteria

- 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 for SUD – 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 for SUD – 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 for SUD – 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

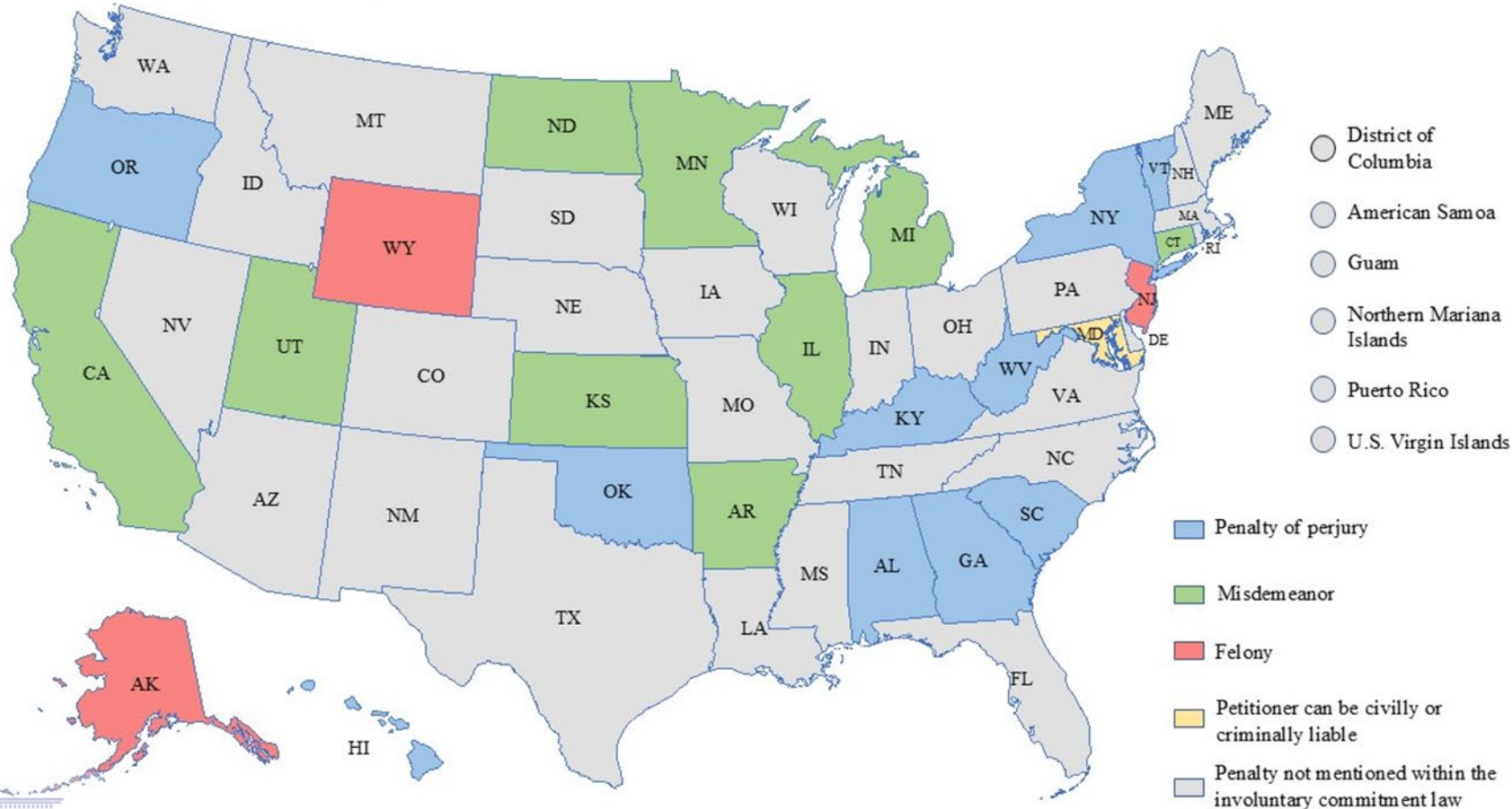
“Likelihood of serious harm”, (1) a substantial risk of physical harm to the person himself as manifested by evidence of, threats of, or attempts at, suicide or serious bodily harm; (2) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior 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 for SUD – 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 for SUD – False Petitions

Involuntary Commitment Laws: Penalty for Filing a False Petition

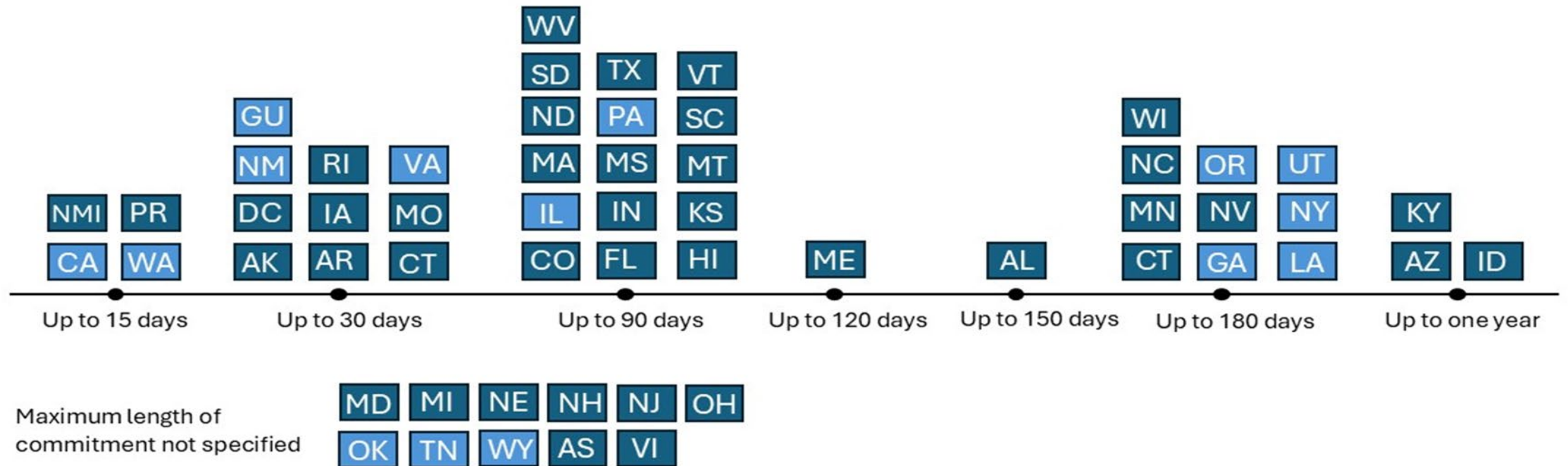


24 states* specifically delineate within their involuntary commitment laws a penalty for filing a false petition for involuntary commitment

*As of December 2024

Involuntary Commitment for SUD – Length of commitment*

Involuntary Commitment Laws: Maximum Length of Involuntary Commitment

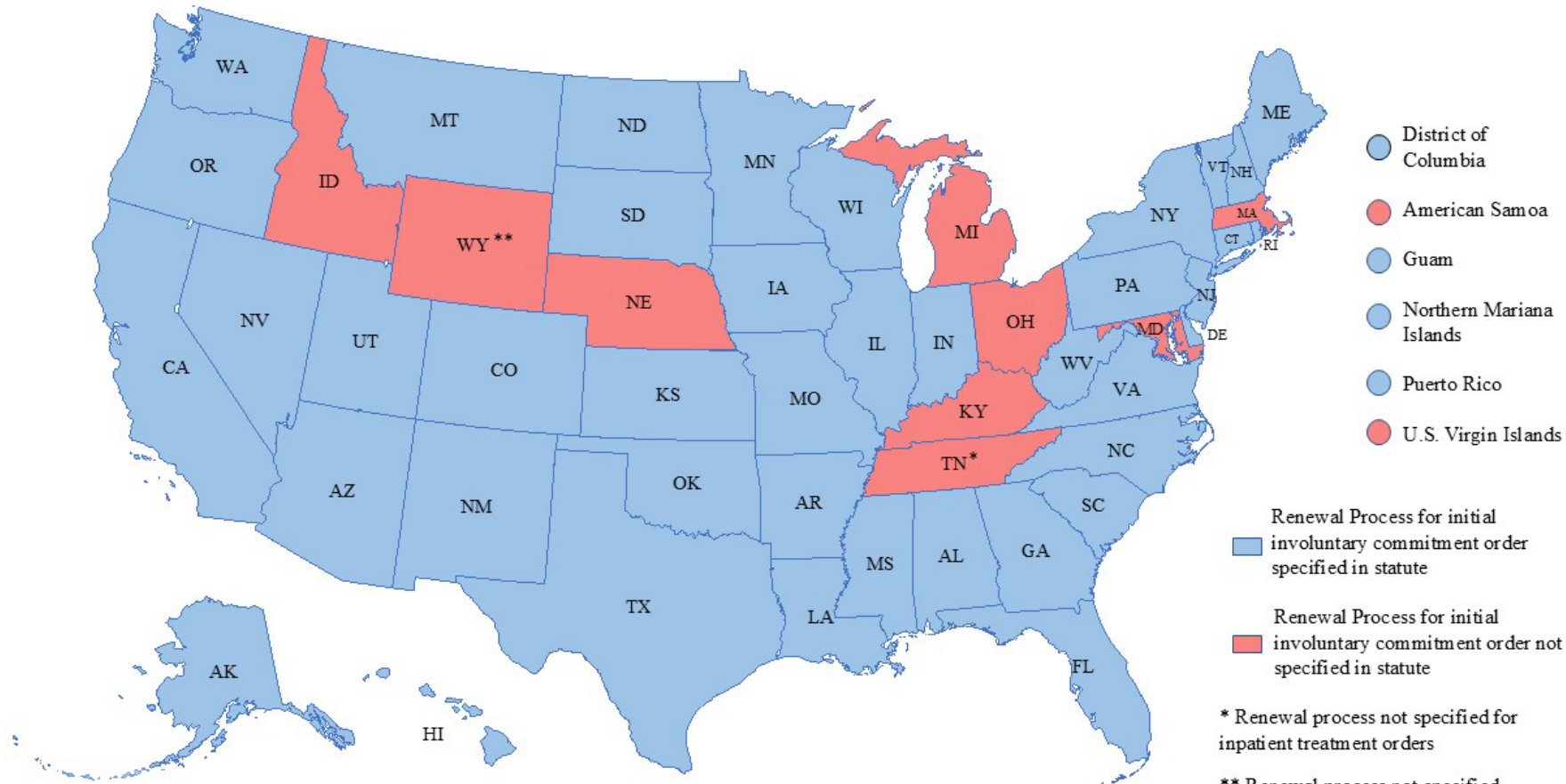


- Maximum involuntary commitment length applies to both inpatient and outpatient treatment
- Different maximum commitment length for outpatient treatment

*As of December 2024

Involuntary Commitment for SUD – 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 additional treatment beyond the initial treatment period

*As of December 2024

Involuntary Commitment for SUD – Cost of Treatment

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

Involuntary Commitment for SUD – 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 provider 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).

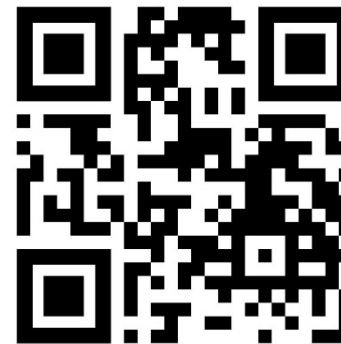
Involuntary Commitment for SUD – Cost of Treatment

- **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



<https://legislativeanalysis.org/model-involuntary-commitment-for-substance-use-disorder-act-act/>

Involuntary Commitment for SUD Model Act

SECTION IV. CRITERIA FOR INVOLUNTARY COMMITMENT FOR SUBSTANCE USE DISORDER.

(a) Criteria for involuntary commitment.—A petitioner who meets the requirements set forth in Section V, subsection (a) may file a petition with the court requesting the involuntary commitment of an individual eighteen (18) years of age and older if the petitioner has probable cause to believe that the respondent has severe substance use disorder and because of such disorder:⁹³

- (1) Is in need of substance use disorder treatment services and would reasonably benefit from such services but is not capable of:
 - (A) Appreciating his or her need for such services; and
 - (B) Making a rational decision in that regard;
- (2) Has a grave disability that results in the respondent being unable to provide for his or her own basic physical needs; and
- (3) Without immediate care or treatment there is a grave risk of imminent physical harm to the individual respondent or others.

Involuntary Commitment for SUD Model Act

(m) Cost of treatment.—The cost of any and all treatment and other services associated with the temporary protective custody and involuntary commitment of the respondent shall be paid as follows:

- (1) By the respondent's health insurance, if he or she is insured and if such services are covered;
- (2) By the petitioner, who shall sign a guarantee which shall be filed with the petition obligating him or her to pay such costs only if the respondent does not have health insurance or if any services are not covered by the respondent's insurance; or
- (3) By the state if the petitioner is filing the petition within his or her role as a law enforcement official, a healthcare practitioner, or a behavioral health professional, or if the petitioner is indigent.

Involuntary Commitment for SUD Model Act

(m) Discharge plan.—Fifteen (15) days prior to the individual’s discharge date, the individual’s treatment team at the facility shall develop a discharge plan in collaboration with local social service entities. The treatment team shall give the individual an opportunity to participate in the formulation of the discharge plan. A copy of the discharge plan shall be provided to the court. The discharge plan shall include and document the respondent’s needs and actions to address such needs for, at a minimum:²²⁷

- (1) Appointments to follow up on physical and behavioral health issues;
- (2) Information on how to obtain prescribed medications including medication for addiction treatment, if applicable;
- (3) Information on available social services and public benefits including housing, employment, and transportation and referrals to such services as necessary;
- (4) Information on how to obtain health insurance if the individual is uninsured;
- (5) Referral to recovery support opportunities including, but not limited to, peer support services; and
- (6) A safety plan for the individual and the number of a crisis services hotline.

Involuntary Commitment for SUD Model Act

SECTION X. INVOLUNTARY COMMITMENT REVIEW BOARD.

(a) Establishment.—Within one (1) year of the effective date of this Act, the [state department of substance use and mental health services] shall establish an involuntary commitment review board composed of three or more individuals to review the admission, retention, and post-commitment care of individuals ordered to undergo involuntary commitment for the treatment of substance use disorder under this Act. One member shall be a healthcare practitioner with a specialty in addiction medicine, one member shall be a behavioral health professional, and one member shall be an attorney practicing civil rights or disability law.²³⁹

Involuntary Commitment for SUD Model Act

(b) Review.—The review board shall review the admission, retention, and post-commitment care of involuntarily committed individuals at treatment facilities within the state on at least a quarterly basis. The review board may examine the court and treatment records of all involuntarily committed individuals in order to identify any cases of unjustified or excessive involuntary commitment. The review board shall report any findings and concerns to the administrator of the treatment facility, the clerk of the probate court of the county where the involuntary commitment proceedings occurred, and the [state department of substance use and mental health services] within forty-eight (48) hours of discovery. The entities and individuals receiving a report from the review board shall take any corrective action necessary to address the issue(s) identified in the report.

Involuntary Commitment for SUD Model Act

SECTION XII. REPORTING.

(a) Annual report.—Within one (1) year of the effective date of this Act and annually by that date thereafter, the following entities shall submit a de-identified, aggregate report to the [state department of substance use and mental health services]:

- (1) Each [probate] court within the state that conducts involuntary commitment for substance use disorder proceedings;
- (2) Each treatment facility within the state that accepts individuals subject to an order of involuntary commitment for the treatment of substance use disorder; and
- (3) The involuntary commitment review board.

(b) Data analysis.—The [state department of substance use and mental health services] shall analyze each annual report submitted pursuant to subsection (a). It shall create a single report containing an aggregate of the data submitted and shall submit that report to the governor and the [appropriate committees] of the state legislature.

Involuntary Commitment for SUD Model Act

Additional aspects of Model Act

- Mere refusal to undergo treatment not a justification for involuntary commitment
- Limits who can file a petition
- Penalty for false petitions
- 90-day maximum commitment period
- Treatment facilities used for involuntary commitment required to maintain or have the capacity to process, dispense, and administer all FDA approved forms of MAT

Involuntary Commitment for SUD Model Act

Additional aspects of Model Act cont.

- Treatment facility required to evaluate and develop and individualized treatment plan for the patient within 24 hours of admission.
- Enumerated list of rights of individuals involuntarily committed for SUD
- Connection to peer support services and provision of overdose reversal medication upon discharge
- Education and training requirements
- Development and publication of a publicly available involuntary commitment guide

Questions?

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