

**COMMITMENT OF A PERSON ABUSING ALCOHOL AND/OR DRUGS
(Massachusetts General Law Chapter 123, Section 35)**

INFORMATION AND FREQUENTLY ASKED QUESTIONS

1. What is a “Section 35” petition?

A Section 35 petition is a civil proceeding for persons with an addiction. It allows for the involuntary commitment to a treatment facility for **up to** ninety days of an individual (“respondent”) who has an addiction to alcohol and/or legal or illegal drugs. The individual must present an **imminent** “likelihood of serious harm” to themselves or others due to the addiction. An individual does not meet criteria for commitment based **SOLELY** on having an alcohol and/or substance use disorder. This law is intended as an emergency measure. It is not a long-term solution to alcohol and/or substance use disorders.

2. Who can request/petition for a Section 35 (the “petitioner”)?

The **only** people who may petition to have an individual involuntarily committed for alcohol or substance abuse treatment:

- Blood relative
- Spouse
- Police officer
- Court Official
- Physician
- Guardian

These are examples of persons who **don’t** qualify as petitioners:

- Yourself
- Girlfriend/boyfriend/significant other
- Therapist, social worker
- Friend
- Neighbor
- Landlord
- Representative payee
- Concerned citizen

3. Who is eligible to be sectioned under Section 35?

Individuals who chronically abuse alcohol and/or legal or illegal drugs, and as a result of that abuse, present an immediate danger to themselves or others. This individual is referred to by the Court as the “respondent.” There must be evidence to confirm both the seriousness of the substance abuse and the immediate risk of harm. It is not enough that the individual refuses to stop abusing substances if there is no imminent risk related to the addiction.

4. How do I get someone committed for treatment under Section 35?

The commitment of an individual under Section 35 is a two-part process:

I. Filing the petition:

- Start the process as early as possible by going to your nearest district court, Boston municipal court or juvenile court. The court opens at 8:30 a.m. Go to the clerk’s office and ask for the person who helps with the Section 35 petitions.
- It is helpful for the petitioner to know the exact location of the respondent.
- Fill out and sign the petition. You may be asked to fill out a short intake form for the judge to review that identifies the respondent and the reasons for the petition.
- Once the petition has been filed it cannot be withdrawn without the permission of the court.
- The petitioner will speak with the judge in court and be asked to state the reasons for requesting the petition.
- After hearing the petition, the judge will decide whether to have the respondent brought into court either by summons or warrant of apprehension.

Warrant of apprehension:

- If the judge issues the warrant of apprehension, the warrant is sent to the local police who will attempt to apprehend the respondent at the address provided by the petitioner. The police will arrest the respondent and bring him or her to the courthouse during court hours, between 8:30 a.m. and 4:30 p.m. By law, the police can only arrest the respondent when court is open, not at night or on weekends. The warrant of apprehension may be good for up to 5 business days.
- When a warrant is issued and the respondent is arrested, he or she will be handcuffed, taken to court, and put in a holding cell to wait for a hearing.

Summons:

- If the judge issues a summons, the court will send a notice of a hearing date by mail to the respondent.

II. The Evaluation:

- Once the respondent is before the court, the court will provide a lawyer. An attorney is assigned to represent the respondent, not the petitioner. The attorney represents the rights, wishes, and intentions of the respondent.
- The court will also arrange for a psychologist or clinician to examine the respondent. The court clinician will interview the respondent and the petitioner, and may contact the respondent's substance abuse or mental health treatment providers or programs to obtain further information that will assist the court to decide whether or not to commit the respondent.

5. The Hearing:

The court will conduct a hearing at which the clinician will testify. Both the petitioner and the respondent will have an opportunity to present evidence and be heard.

The court can order commitment **only** if it finds that:

1. The respondent is a person with an alcohol and/or substance use disorder, **AND**
2. There is a likelihood of serious harm as a result of the disorder.

5A. What does a "likelihood of serious harm" mean?

Section 35 defines "likelihood of serious harm" as the following:

1. a substantial risk of physical harm to the person himself as manifested by evidence of, threats of, or attempt 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.

The "likelihood of serious harm" must be current and directly related to the alcohol and/or substance use disorder.

If the judge concludes that there is not enough evidence to meet the legal standard for an alcohol and/or substance use disorder, or likelihood of serious harm, the petition is denied and the respondent is released.

6. Where does the respondent go for treatment if committed?

If the judge decides to commit the respondent, the court will hold the respondent until the Sheriff's Department transports him or her to the treatment facility. The court cannot commit to a private facility, nor force an insurance company to pay for treatment. Neither the petitioner nor the respondent has a choice where the respondent receives treatment. There are several public detoxification/treatment facilities in Massachusetts to which the court can commit under Section 35. The treatment facilities are run by either the Department of Public Health (DPH) or the Department of Corrections (DOC). **Although the law allows commitment for up to 90 days, the commitment period is usually much shorter.**

7. What if the respondent 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 "Level 4" treatment, which would take place in a hospital setting, if they have conditions such as 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 medication

8. Facilities:

Treatment Facilities for Men:

1. Massachusetts Alcohol and Substance Abuse Center (MASAC) (DOC)
 - 1 Bumps Pond Road, Plymouth, MA 02360, 508-291-2441.
2. Men's Addiction Treatment Center (MATC) (DPH)
 - 10 Meadowbrook Road, Brockton, MA 02301, 508-742-4400.
3. Stonybrook Stabilization and Treatment Center at Ludlow (Stonybrook at Ludlow) (DOC)
 - 627 Randall Road, Ludlow, MA 01056, 413-547-8000.

Treatment Facilities for Women:

1. Women's Addiction Treatment Center (WATC) (DPH)
 - 108 North Front Street, New Bedford, MA 02740, 774-628-1000.

2. The Taunton State Hospital Women's Recovery from Addictions Program (WRAP) (DMH)
 - 60 Hodges Avenue, Taunton, MA 02780, 508-828-3800.
3. The High Point Shattuck Women's Treatment Center (DPH)
 - 170 Morton Street, Jamaica Plain, MA 02124, 857-273-4929.
4. The First Step Program, MCI Framingham (DOC)
 - 99 Loring Drive, Framingham, MA 01702, 508-532-5100.

Treatment Facilities for Men and Women:

1. Brockton Addiction Treatment Center (BATC)
 - 30 Meadowbrook Road, Brockton, MA 02301, 508-742-4420.
2. Gavin Foundation
 - 43 Old Colony Avenue, Quincy, MA 02170, 617-845-5785.
3. Northern Hope Center
 - 298 Federal Street, Greenfield, MA 01301, 413-733-1423.

Treatment Facilities for Adolescents

1. Clean and Sober Teens Living Empowered (CASTLE)
 - 20 Meadowbrook Road, Brockton, MA 02301, 508-638-6000.
2. Motivating Youth Recovery (MYR)
 - 26 Queen Street, Worcester, MA 01610, 508-860-1244.

8A. What are the facility's policies and procedures?

Each facility has different rules regarding:

- Schedules and program of treatment
- Visits
- Transportation (to court appearances, interviews for halfway houses, to an identified residential setting or home)
- Number of roommates
- Items that may be dropped off
- Smoking
- Phone use
- Maximum amount of money that may be possessed by the respondent, how it may be used and what happens to the unused portion upon discharge
- Canteen

The respondent must sign a release before the treating facility can communicate with family members about the respondent's treatment. This includes notification of discharge or transfer to another facility.

Once a petitioner learns where the respondent will be sent for treatment, they may seek out information regarding the facility's policies and procedures directly from the facility.

9. Can a facility transfer a respondent from one facility to another if a bed opens?

Respondents admitted to a facility will typically complete the commitment at that facility. Under certain circumstances, Section 35 programs may transfer respondents to other facilities based on their medical or psychiatric needs.

10. What happens after the commitment is completed and the respondent is discharged?

Aftercare recommendations and referrals are made by the respective facilities. The Court has no influence on whether or not the individual agrees to engage in aftercare treatment following commitment.

11. Can I go back to court if the respondent drinks or uses substances again?

Yes, you may file a new petition. However, it is not automatic that the court will commit the respondent based solely on a history of a respondent's prior commitment.

Other Options:

There are many programs that can help family or friends learn more about addiction, the process of recovery, and how best to intervene. It is helpful for families, friends, and significant others to learn about addiction and to understand the process of recovery. Many of the individuals that are committed return to their family to continue their treatment. Being aware of what one's role is in supporting recovery will increase the chance of a successful outcome.

Self-help organizations can be resources for families and friends.

Bureau of Substance Abuse Services Helpline (BSAS):

To find substance abuse programs, hotlines, support groups, self-help meetings, counseling services, and community resources
<http://www.helplinema.org> 1-800-327-5050, Monday-Friday 8:00 a.m.-10:00 p.m., Weekends and Holidays, 8:00 a.m.-6:00 p.m.

Alcoholics Anonymous:

AA is a fellowship of men and women who have had a drinking problem.
<http://www.aa.org>
617-426-9444

Al-Anon/Al-Ateen:

Strength and hope for friends and families of problem drinkers

<http://al-anon.org>

<http://ma-al-anon-alateen.org>

508-366-0556

Nar-Anon:

A 12-step program for families and friends of addicts

<http://www.nar-anon.org>

866-624-3578 or 1-800-477-6291

Allies in Recovery:

AIR is an online learning platform for families with a loved one struggling with drugs or alcohol

<http://alliesinrecovery.net>

Learn to Cope:

Learn to Cope is a peer-led support network for families dealing with addiction and recovery

<http://learn2cope.org>

508-738-5148 or 508-801-3247