

Involuntary Commitments in Alabama

What should I do if I believe someone needs treatment for mental illness?

Call 911 for emergency assistance if the person is actively suicidal, dangerous, or if it is a medical emergency. If it is not an emergency, take the person to your local mental health center or mental health hospital if he or she will go voluntarily. If the person refuses help and you believe they are a danger to themselves or to others, contact the Probate Judge's Office, Sheriff's Office, mental health center, or your attorney for instructions on how to initiate an involuntary commitment proceeding.

What is an involuntary commitment?

A procedure whereby a court orders that a person is involuntarily placed in the custody of the State Department of Mental Health for mental health services in either an outpatient or inpatient setting.

Who may file a petition to initiate an involuntary commitment proceeding?

Any individual may file a petition in the probate court of the county where the respondent is located. The petition shall be filed in accordance with Alabama Code § 22-52-1.2.

What must the petition contain?

The petition must contain the following information:

- 1) The name and address, if known, of the respondent.
- 2) The name and address, if known, of the respondent's spouse, legal counsel, or next-of-kin.
- 3) That the petitioner has reason to believe the respondent is mentally ill or is mentally ill with a secondary diagnosis of co-occurring substance use disorder.
- 4) That the beliefs of the petitioner are based on specific behavior, acts, attempts, or threats, which shall be specified and described in detail.
- 5) The names and addresses of other individuals with knowledge of the respondent's mental illness or mental illness with a secondary diagnosis of co-occurring substance use disorder who may be called as witnesses.
- 6) Any other relevant information.

Evidence

Expert witnesses may testify on a petition to commit since the petitioner must prove that the person is mentally ill and other elements that would seem to call for an opinion beyond that of a family member or friend.

A family member or friend may testify as to their opinion on a person's sanity as long as they have had adequate opportunity to observe that respondent's conduct is either normal or abnormal behavior.

A licensed general practitioner of medicine is considered an expert under Alabama law and may render expert testimony on a person's sanity.

To whom must the court send notice of the commitment proceeding?

Notice must be served on the respondent and the Department of Mental Health or other designated mental health facility where the petition seeks to have the person committed.

Must the court appoint attorneys to represent the parties involved in an involuntary commitment proceeding?

For the respondent, the probate judge shall appoint an attorney if the respondent lacks the funds to hire an attorney or if the respondent lacks the mental ability to secure an attorney.

For the petitioner, the probate judge must appoint an attorney to serve as the advocate in support of the petition. However, the petitioner may employ an attorney on their own to appear in lieu of the appointed attorney.

If the petition is denied, the petitioners may be required to pay all costs of the proceedings.

What is the procedure to be followed at the hearing?

- 1) The respondent has the right to be present unless waived (in writing) or presence would keep hearings from being conducted in an orderly manner, or the respondent's attendance would be dangerous to the respondent's physical or mental health.
- 2) A hearing is to be held by probate judge without a jury.
- 3) The hearings are to be open to the public unless requested otherwise by the respondent.
- 4) A full transcript of the hearing must be kept for three years.
- 5) The Alabama Rules of Evidence apply to this hearing.
- 6) The respondent has the right to offer evidence, and to compel witnesses and the right to cross-examine.
- 7) The respondent may testify in his own behalf but cannot be forced to testify against himself.
- 8) Commitment is granted only if the elements required for commitment are established by clear, unequivocal and convincing evidence.

What are the results of the hearing?

If commitment is granted, the order shall be entered for either outpatient treatment or inpatient treatment. The least restrictive alternative necessary and available for the treatment of the respondent's mental illness or mental illness with a secondary diagnosis of co-occurring substance use disorder shall be ordered. Inpatient treatment may be ordered at a state mental health facility or a designated mental health facility. Outpatient treatment may be ordered at a designated mental health facility if said facility consents to treat the respondent on an outpatient basis.

Involuntary Commitments in Alabama, continued

What findings are necessary in order to involuntarily commit a person to outpatient treatment?

The judge must find, based upon clear and convincing evidence, that all of the following are true:

- 1) The respondent has a mental illness or a mental illness with a secondary diagnosis of co-occurring substance use disorder.
- 2) As a result of the mental illness or mental illness with secondary diagnosis of co-occurring substance use disorder, the respondent, if not treated, will suffer mental distress and experience deterioration of the ability to function independently.
- 3) The respondent is unable to maintain consistent engagement with outpatient treatment on a voluntary basis, as demonstrated by either of the following:
 - a. The respondent's actions occurring within the two-year period immediately preceding the hearing.
 - b. Specific aspects of the respondent's clinical condition that significantly impair the respondent's ability to consistently make rational and informed decisions as to whether to participate in treatment for mental illness.

What findings are necessary in order to involuntarily commit a person to inpatient treatment?

The judge must find, based upon clear and convincing evidence, that all of the following are true:

- 1) The respondent has a mental illness or a mental illness with a secondary diagnosis of co-occurring substance use disorder.
- 2) As a result of the mental illness or mental illness with a secondary diagnosis of co-occurring substance use disorder, the respondent poses a real and present threat of substantial harm to self or others.
- 3) The respondent, if not treated, will continue to suffer mental distress and continue to experience deterioration of the ability to function independently.
- 4) The respondent is unable to make a rational and informed decision as to whether or not treatment for mental illness or mental illness with a secondary diagnosis of co-occurring substance use disorder would be desirable.

Why must the preceding procedure be rigidly followed?

The preceding procedure sets out the minimum requirements necessary for the commitment process to be constitutional under the doctrines of procedural due process and substantive due process.

What follows an initial commitment?

- 1) The initial commitment order valid for up to 150 days.
- 2) The State must file a petition for renewal at least 30 days prior to the expiration of the initial order, and the petition must state, in detail, the reasons for renewal.
- 3) Any renewal order shall not exceed one year.
- 4) The respondent must be released if the renewal petition is not filed or if it is denied.

What are some alternatives to Involuntary Commitments?

- 1) Outpatient treatment, group therapy, individual therapy, or medication.
- 2) Weekend inpatient treatment.
- 3) Respite bed in a transitional home.
- 4) Group homes.
- 5) Voluntary hospitalization.
- 6) Nursing homes.
- 7) State homes.

This list of alternatives is not an exhaustive list. These alternatives vary as to the amount of supervision involved and whether that alternative is appropriate will depend upon the specific facts involved. Each of these alternatives are voluntary and require the approval of the person sought to be committed.

This pamphlet, which is based on Alabama Law, is intended to inform and not to advise. No person should ever apply or interpret any law without the aid of a lawyer who analyzes the facts, because the facts may change the application of the law.



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