

**A Roadmap of South Dakota's  
Substance Use Involuntary Commitment  
For Family and Friends**

## **Purpose**

It is very difficult to watch a loved one suffer from a substance use disorder. In certain situations, an intervention may be needed on behalf of that loved one as he or she may not understand they need help or are unable to make those decisions independently.

This roadmap provides concerned family members and friends with information regarding substance use disorder treatment services and the process for involuntary commitment along with other related resources.

If you have any questions in regards to services or resources within the community, please contact the Division of Behavioral Health at 1-605-773-3123 or 1-855-878-6057 or visit the website at <https://dss.sd.gov/behavioralhealth/>.

### **What is a substance use disorder?**

A substance use disorder is a disease which occurs when the recurrent use of alcohol and/or drugs causes significant impairments. Impairments may include health problems, disability and failure to meet major responsibilities at work, school or home.

Addiction is a disease and not a choice your loved one is making. The addiction causes an individual to make choices that they would not normally make or would not have made prior to the addiction. Their judgement becomes clouded and their drive for substances may be the most important thing in their lives, even more than family and friends. It can be very hard to watch the addiction take over but help is available in many forms.

### **How are services determined?**

An addiction counselor will meet with your loved one to complete an integrated assessment. Treatment services will be determined based on the completion of the assessment to best meet the needs of the individual. Family members and friends should always try to talk to their loved one first to see if they would be willing to have an assessment completed by an addiction counselor prior to pursuing an involuntary commitment.

Upon completion of the assessment, individuals will be given the opportunity for feedback; this feedback will assist your loved one in helping them to understand the destruction surrounding their substance use. Family and friends may participate in the assessment process by providing information to the addiction counselor in order to assist in identifying appropriate treatment services.

The Division of Behavioral Health accredits and contracts with several community-based substance use disorder treatment providers across the state to provide quality services to both adults and youth. Services include screenings and assessments, early intervention, detoxification, outpatient and inpatient treatment services. Financial assistance for services is available.

### **Services Available**

Assessments:

An assessment includes an interview with an addiction counselor to review a person's substance use and its impact on the individual's daily life.

Early Intervention Services:

Early intervention services offer outpatient services to individuals who may have substance use related problems, but are not diagnosed with a substance use disorder.

Outpatient Treatment Services:

Outpatient treatment services provide counseling services to individuals diagnosed with substance use disorders.

Low Intensity Residential Treatment Services:

Low intensity residential treatment services include residential, peer-oriented treatment programs for individuals with substance use disorders whose living situation or recovery environment is incompatible with recovery goals. To prepare the client to live successfully in the community, the program provides substance use disorder counseling along with case management services.

Inpatient Treatment Services:

Inpatient treatment services provide residential treatment with medically monitored intensive treatment for individuals with severe substance use disorders.

Detoxification Treatment Services:

Detoxification treatment services are residential treatment services delivered by trained staff that provides 24-hour supervision, observation and support for individuals who are intoxicated or experiencing withdrawal symptoms. The goal is to motivate the individual to seek further treatment services.

**How do I know if an Involuntary Commitment needed?**

After speaking to your loved one and they decide to not seek help, it may be painful to watch, but remember that not all individuals will benefit from treatment services if he or she is not willing or wanting to recover from their disease at that time. It also does not mean the individual's judgement is wrong or that he or she is in need of an involuntary commitment.

Similar to an individual who has heart disease or diabetes, the recommended course of treatment may include lifestyle changes that he or she is not wanting or willing to make. This can be the case as well for an individual with a substance use issue. He or she may be given the resources, tools and support to make the changes needed but may decide not to make those steps towards recovery.

For an individual to be appropriate for an involuntary commitment to substance use treatment, you will need to provide information that supports that your loved one is a substance user who continually lacks self-control, in regards to their alcohol and/or drug use AND

1. Has threatened, attempted, or inflicted physical harm on self or on another, and unless committed, is likely to harm self or others;
2. Is incapacitated by the effects of alcohol or drugs;
3. Is pregnant and using alcohol or drugs;

If your loved one is not willing to seek help on their own and is a danger to self or others, as listed above, there are steps to assist you in starting the process for an Involuntary Commitment.

### **Involuntary Commitment Process**

#### **Step 1: Petition**

a) Who May Apply:

Any responsible person, for example, spouse, relative, friend or physician

b) Where to Apply:

Clerk of Courts in the county in which the person resides or is currently present.

The clerk of courts in South Dakota can be found here and are listed by county:

<http://uj.s.sd.gov/Contact/clerkcourts.aspx>.

c) Application:

- The clerk of courts will take the written application that you completed to the Judge, who will appoint an attorney to represent, you, the applicant, referred to as petitioner.
- Within five days, the attorney completes and submits a petition, along with reports from an addiction counselor, to the courts alleging that your loved one to be committed referred to as the respondent.
- Completing a petition (application) and submitting it to the court is not a guarantee that your loved one will be committed. A person cannot be committed merely because he or she is a substance user. There will need to be a threat, attempt, or act of physical harm to self or others or the likelihood that harm may occur is necessary, before the court has the power to commit a person.

d) Addiction Counselor's Certificate: An Addiction Counselor's certification must be completed within two days prior to the filing of the petition; it must support the allegations in the petition. The attorney will set up the appointment with the respondent and a counselor. The counselor will make treatment recommendations based on the individual's needs. The services may include inpatient treatment, residential treatment or outpatient treatment. If the respondent refuses to meet with the addiction counselor for completion of the certificate this will be documented in the petition.

#### **Step 2: Hearing:**

a) Right to Attorney:

The respondent has the right to have his or her own attorney.

b) Time frame:

The court has 10 business days to have a hearing.

c) Testimony:

The petitioner and the counselor may be asked to testify at the court hearing. The respondent will be present in court unless his or her presence is likely to be injurious to them.

d) Decision:

The Judge will determine if commitment criteria is met based on the testimony of the petitioner and the addiction counselor. If so, the court will make an order of

commitment to an approved treatment facility that is able to provide appropriate and beneficial treatment.

### Step 3: Commitment

- a) Treatment services: The treatment will be arranged by the counselor completing the substance use certificate based on their treatment recommendations. The addiction counselor completing the assessment can't work at the agency your loved one is committed to for treatment.
- b) Involuntary commitment: The commitment period is up to 90 days and this can include inpatient treatment, residential treatment or outpatient treatment services. The length of commitment is individualized for clients' needs at the treatment agency. If it is found that the likelihood of harm or infliction of physical pain upon self or others no longer exists, or that no further treatment is appropriate, the individual may be discharged.
- c) Payment: Please be aware that payment for treatment services, under the involuntary commitment, may be assessed to the individual committed, a legally responsible relative or guardian, the county of residence, or billed to the Division of Behavioral Health, through a contract, with an approved treatment facility.