

# South Dakota's Substance Use Involuntary Commitment Process

»»» A Roadmap For Family and Friends «««

# Purpose

It can be difficult to watch a loved one suffer from a substance use disorder. In certain situations, an intervention may be needed on behalf of the individual, as they 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.

Call or text 988, or chat [988lifeline.org](https://988lifeline.org) to easily locate services in your area or for additional guidance on how to best support your loved one and determine next steps. 988 is available 24/7 and connects you directly to local, trained counselors who can assess your situation and provide you behavioral health resources.

You can also locate a provider by using the interactive map on the Division of Behavioral Health website and selecting your county of residence. The interactive map can be found using this link: <https://dss.sd.gov/BehavioralHealth/agencycounty.aspx>

Call 211 or text your zip code to 898211 to speak with a local, trained professional to get connected to community-based resources, government programs and other additional needs such as food, housing, transportation, and more.

If you have any questions regarding behavioral health services, please contact the Division of Behavioral Health at 1-605-367-5236 or [DSSBH@state.sd.us](mailto:DSSBH@state.sd.us) or visit <https://dss.sd.gov/behavioralhealth/>.

## What is a substance use disorder?

A substance use disorder (SUD) is a complex condition that involves a pattern of symptoms that arise from substance use and continue despite negative effects, such as cravings or strong urges to use, failure to complete major tasks at work, school, or home, and continued use that puts you in danger.

Substance Use Disorder is a disease and not a choice your loved one is making. It may impact an individual's choices, some that they would not normally make or would not have made prior to this disorder. Due to the impact a substance use disorder has on the brain, it can make it challenging for the individual to make positive choices, engage in a healthy lifestyle, and stop their substance use. It can be very hard to watch the impact substance use has on your loved one, but help is available in many forms.

# Services

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

## Assessments

An assessment includes an interview with a trained clinician to review a person's critical life areas, including their substance use and its impact on daily life.

## Outpatient Treatment

Outpatient treatment services provide counseling services to individuals diagnosed with substance use disorders. Also available on an outpatient basis are early intervention service for individuals who may have substance use related concerns but are not diagnosed with a substance use disorder. Outpatient services are delivered in-person or via telehealth.

## Low Intensity Residential Treatment

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

Inpatient treatment services provide residential treatment with medically monitored intensive treatment for individuals with severe substance use disorders. Individuals will reside at the facility during their stay and will receive treatment services daily through a combination of individual, group, or family counseling.

## Detoxification/Withdrawal Management

Detoxification/ withdrawal management services are facilities equipped with trained staff providing 24-hour supervision, observation, and support for individuals who are intoxicated or experiencing withdrawal symptoms. The staff aims to engage individuals in further treatment services after stabilizing withdrawal symptoms.

## How are services determined?

An addiction counselor will meet with your loved one to complete an assessment. Treatment services will be determined based on the completion of the assessment to best meet the needs of the individual.

Family and friends may participate in the assessment process by providing information to the addiction counselor completing the assessment to assist in identifying appropriate treatment services. Upon completion of the assessment, individuals may be provided with the treatment recommendation and assistance with setting up services.

**1** Contact a local treatment provider

**2** A professional completes an assessment

**3** Recommendations for services and/or supports will be provided

# How do I know if an Involuntary Commitment is needed?

**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.**

If your loved one refuses to get help, remember that not all individuals will benefit from treatment services if they are not willing or wanting to recover at this time. A desire to continue their current use or not seek treatment does not mean the individual's judgement is wrong or that they automatically qualify for 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 concern. They may be given the resources, tools and support to make the changes needed, but may decide not to make those steps towards recovery. It's important to remember that everyone's recovery journey is different and there is no right or wrong path.



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 regard 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; or
- 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

### Who may apply?

Any responsible person such as a spouse, friend, or physician

### Where do I 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: [https://ujs.sd.gov/Circuit\\_Court/Default.aspx](https://ujs.sd.gov/Circuit_Court/Default.aspx).

### 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, referred to as the respondent, to be committed.
- 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.

### Addiction Counselor's Certificate

An Addiction Counselor's assessment must be completed within five 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 outpatient, low-intensity residential, or inpatient treatment. If the respondent refuses to meet with the addiction counselor for completion of the assessment this will be documented in the petition.

# Involuntary Commitment Process

## Step 2: Hearing

### Right to Attorney

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

### Time Frame

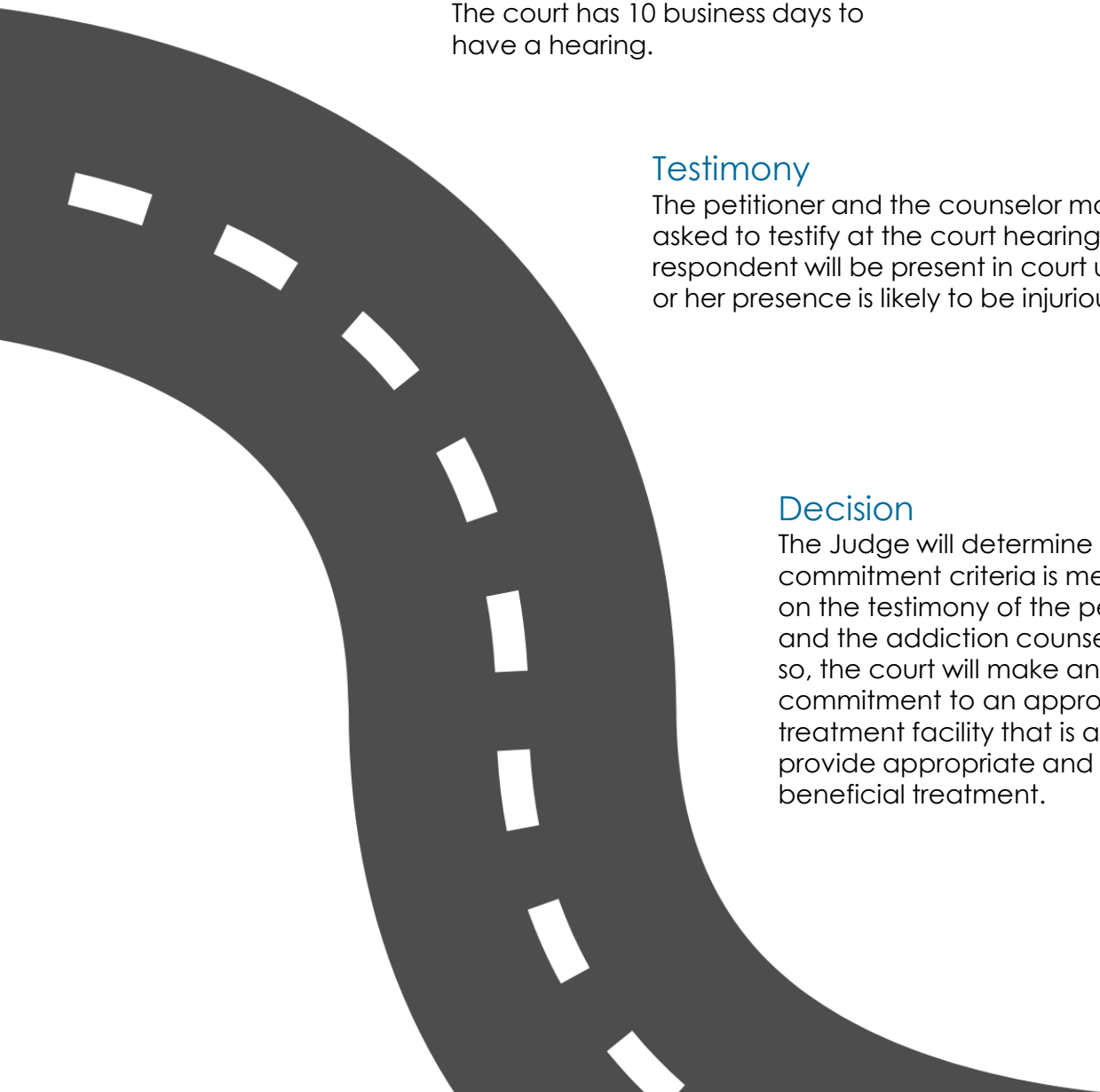
The court has 10 business days to have a hearing.

### 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.

### 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.



# Involuntary Commitment Process

## Step 3: Commitment

### Treatment Services

Treatment will be arranged by the counselor completing the substance use assessment based on their treatment recommendations. The addiction counselor completing the assessment cannot work at the same agency your loved one is committed to for treatment.

### 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, infliction of physical pain upon self or others no longer exists, or that no further treatment is appropriate, the individual may be discharged.

### 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.

