



## The Office of State Representative Randy Hunt 5<sup>th</sup> Barnstable District

### Considering Pursuing a Section 35 Civil Commitment?

Chapter 123, Section 35 of the Massachusetts General Laws authorizes state courts to involuntarily commit an individual to a facility if, after a hearing in court, a judge finds clear and convincing evidence showing that such individual suffers from an alcohol or substance use disorder, and that there is a likelihood of serious harm as a result of that disorder. A person has an “alcohol use disorder” or a “substance use disorder” if the evidence presented to the judge shows that the individual’s chronic use of alcohol and/or drugs either substantially injures the individual’s health or ability to function socially or economically, or that the person has lost the power of self-control over the use of alcohol and/or drugs. A police officer, physician, spouse, blood relative, guardian or court official may go to the district court or juvenile court to apply in writing for this type of order of commitment. In filing a petition for commitment, the filer becomes the “petitioner.” The individual whom the petitioner is asking the court to commit is called the “respondent.”

Under this section, a respondent can be involuntarily committed for substance use treatment for a period of up to 90 days. This 90-day period is the maximum period for which a respondent may be committed under this section. The court cannot set a minimum time for which the commitment must last; committed individuals are frequently discharged from commitment before the 90-day maximum commitment period has expired. Adult male respondents committed in our area of the Commonwealth may be committed to the Massachusetts Alcohol & Substance Abuse Center at Bridgewater State Hospital, to the Men’s Addiction Treatment Center in Brockton, or to the Plymouth House of Correction. Adult women in this area may be committed to High Point – Shattuck in Jamaica Plain, the Women’s Addiction Treatment Center in New Bedford, or the Women’s Recovery from Addiction Program in Taunton. Adolescents in this area may be committed to Clean & Sober Teens Living Empowered in Brockton. The facility to which a specific respondent is committed will depend in large part on which facility has an available bed at the time that the commitment is ordered.

You should consider all available options before pursuing a Section 35 civil commitment, as it is a method of last resort. If you do choose to seek a Section 35, you should visit your local district court during normal business hours and inquire with the clerk’s office about filling out a petition for commitment. You should come to the court with as much of the following information as possible:

- Basic information about the individual (including relationship to petitioner, where the individual is likely to be found, physical description, social security number, employment and educational history, and contact information);
- Any first-hand information you have about the individual’s current alcohol and/or substance use, including which substances you know the individual to be using now, how frequently you know the individual to be using that substance, and the quantities of the substances that the individual is using;
- Medical and mental health history (including health insurance information and history of substance use);
- Information regarding the last date and location of contact the petitioner last had with the respondent;
- And the present risk of harm the respondent poses to his/her self and others.

*This summary of the Section 35 statute was compiled by the Office of State Representative Randy Hunt, and is not in any way a document produced or sponsored by the Massachusetts Trial Court. The information contained herein does not constitute formal legal advice.*



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Keep in mind that the court must assess the respondent's current use of alcohol or drugs, as well as the current risk of harm that the respondent's use disorder presents.

If, after review of the petitioner's application materials, the court finds a basis to go forward with the petition, the court will issue a warrant of apprehension. That warrant gives the police authority to place the respondent in custody during specified business hours in order to bring the respondent to court. Warrants are valid for five business days from the date that the warrant is issued.

When the respondent is brought into court on the warrant, he or she will be assigned an attorney. A court clinician will examine the respondent and interview the petitioner. The clinician will testify about his or her evaluation, and about his or her opinion about whether the respondent meets the criteria for commitment. The judge, who may take other evidence in addition to the clinician's testimony, will decide whether the respondent meets the requirements for commitment, and will allow or deny the petition to commit the respondent. If the respondent cannot be evaluated by a clinician before the end of the court's business day, the respondent must be released at the end of the business day.

For more information about Section 35, please visit:

<http://www.mass.gov/eohhs/gov/departments/dph/programs/substance-abuse/addictions/drugs-and-alcohol/section-35-faq.html>

### District Courts on Cape Cod:

**Barnstable District Court-** 3195 Main Street, P.O. Box 427, Barnstable, MA 02630

Clerk's Office: 508-375-6778

**Falmouth District Court-** 161 Jones Road, Falmouth, MA 02540

Clerk's Office: 508-495-1500

**Orleans District Court-** 237 Rock Harbor Road, Orleans, MA 02653

Clerk's Office: 508-255-4700

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