

WHAT SHOULD I DO IF I BELIEVE SOMEONE NEEDS TREATMENT FOR A 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 the Probate Court orders mental health services in either an outpatient or inpatient setting. This is done only if necessary, and after every effort is made to provide treatment for the person on a voluntary basis. A person cannot be committed due to a drug or alcohol problem. The law specifically states that such problems do not constitute a mental illness for purposes of this act.

WHAT IS THE PURPOSE?

The purpose of involuntary commitment is to provide psychiatric treatment for mentally ill individuals who have become a danger to themselves or others, and are refusing voluntary treatment. However, the Court is ever mindful of the serious deprivation of liberty that this process necessarily involves. The Due Process Clause of the Fourteenth Amendment applies to all citizens, regardless of mental illness, and every effort is made to ensure that rights are not compromised and unnecessary treatment is never tolerated. The Probate Judge will always take the least restrictive measure possible to provide aid in an individual with a mental illness.

WHAT ELEMENTS MUST BE PRESENT IN ORDER TO INVOLUNTARILY COMMIT A PERSON TO AN INPATIENT MENTAL HEALTH FACILITY?

Clear, unequivocal and convincing evidence that:

- a. The respondent is mentally ill;
- b. As a result of the mental illness the person poses a real and present threat of substantial harm to self and/or others;
- c. Respondent will, if not treated, continue to suffer mental distress and deterioration of ability to function independently;
- d. Respondent is unable to make a rational decision regarding treatment;
- e. Treatment is available for the person's mental illness or confinement if necessary.

WHAT IS THE PROCEDURE TO FILE A PETITION FOR COMMITMENT AND WHO MAY FILE?

The petitioner is the individual who comes before the Probate Court and asks that measures be taken regarding a mentally ill person, of at least 19 years of age. The petition is filed in the Probate Court in the county where the respondent is located. The petitioner is usually a family member, but any person may file a petition seeking commitment of another, provided that all the required elements are met. Notice must be served on the respondent and the Mental Health Department or other facility where the petition seeks to have the person committed. Once the petition and probable cause is determined, the respondent may be involuntarily confined in a designated mental health facility or a hospital. A hearing is then set, with notice given. Attorneys are appointed for both petitioner and respondent and all hearings are open to the public, unless otherwise requested by respondent. At the hearing, testimony will be provided by all necessary parties, including expert testimony. The Probate Judge then determines whether the criteria for commitment have been met.

WHAT MUST THE PETITION CONTAIN?

- a. Name and address of the respondent;
- b. Name and location of respondent's spouse, legal counsel or next of kin;
- c. That the petitioner has reason to believe respondent is mentally ill;
- d. Petitioner's beliefs are based on specific behavior, acts, attempts or threats which are specified and described in detail;
- e. Names and addresses of other persons with knowledge of the respondent's illness who may be called as witnesses.

EVIDENCE

Expert witnesses 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 mental health/capacity 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 mental health/capacity.

MUST THE COURT APPOINT ATTORNEYS TO REPRESENT THE PARTIES INVOLVED IN AN INVOLUNTARY COMMITMENT PROCEEDING?

For the respondent: Yes, if such person lacks the mental ability to secure the services of an attorney or if such person lacks the funds to employ an attorney.

For the petitioner: Yes, the Court must appoint an attorney to advocate the petition to commit. The petitioner may employ an attorney on their own to appear in lieu of the

appointed attorney.

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

WHAT IS THE PROCEDURE TO BE FOLLOWED AT THE HEARING?

- a. 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;
- b. A hearing is to be held by Probate Judge without a jury;
- c. The hearings are to be open to the public unless requested otherwise by the respondent;
- d. A full transcript of the hearing must be kept for three years from the date the petition is denied or granted;
- e. The Alabama Rules of Evidence apply;
- f. The respondent has the right to offer evidence and to compel witnesses and the right to cross-examine;
- g. Respondent may testify in their own behalf but cannot be forced to testify against themselves;
- h. 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 the criteria for commitment are met, the order shall be entered for inpatient treatment. In some cases, outpatient treatment is ordered. The least restrictive alternative necessary and available for the treatment of the respondent's mental illness 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. The length of treatment is determined by the treating physician and may be up to, but not more than, 150 days before a subsequent hearing on the merits will be necessary. If the criteria for commitment are not met, then the petition will be dismissed. At no time may the Court order treatment for substance abuse alone, however there are occasions when a dual diagnosis of both substance dependence and mental illness is involved. In these cases, treatment for substance abuse must be voluntary.

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 procedural and substantive due process clause.

WHAT FOLLOWS AN INITIAL COMMITMENT?

- a. Initial commitment order valid for up to 150 days;
- b. State must file a petition for renewal within 30 days of expiration of initial order, stating in detail reasons for renewal;
- c. No renewal shall exceed one year;
- d. Respondent must be released if renewal petition is not filed or is denied.

WHAT ARE SOME ALTERNATIVES TO INVOLUNTARY COMMITMENTS?

- a. Outpatient treatment - The Probate Court may order that the respondent participate in outpatient treatment provided by a designated mental health facility;
- b. Group therapy, Individual therapy, or Medication;
- c. Inpatient treatment -- weekends;
- d. Respite bed in a transitional home;
- e. Group homes;
- f. Voluntary hospitalization;
- g. Nursing homes; or
- h. 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. Other than outpatient treatment, each of these alternatives are voluntary and require the approval of the person sought to be committed.