

## **Section 35 Information- How to Apply for a M.G.L. C.123, Sec. 35**

Petition to the court- any police officer, physician, SPOUSE, BLOOD RELATIVE, GUARDIAN or COURT Official who is reasonably believes that a person is an alcohol or substance abuser may petition the District Court for a section 35 to commit that person to up to 30 days.

### **Alcoholic or Drug Abuser-**

Defined as any person who “chronically consumes or lacks self-control” over alcohol or controlled substances to the extent that it “sustainability injures his/her health or interferes with his/her social or economic functioning”. If someone suffers from an overdose, they clearly meet these needs. It is hard to argue to a court that “the individual’s life is manageable” with an overdose.

What you need to know: you as a spouse, blood relative, and/or guardian. No one is better to petition the court than a blood relative, guardian or spouse

So where do I go?

Go to your district court in the Civil Service Department. Ask for a section 35 document. Fill it out the best you can and the best of your knowledge. If you have any medical records such as hospital visits bring those with you.

A judge will call the section 35 up in court and determine if it is issued or not. Make the description of the problem seem imperative. This meaning that for example: number of overdoses, hospital visits, loss of job, lying, stealing, emotions are out of control, substance use and abuse symptoms (nodding off).

A section 35 can only be obtained by police during court hours. It is recommend to go at 8:30 a.m. to the court house. The court gives 5 days to the individual.

**Where does the person go?** – It depends on the availability of open beds

Men’s MATC in Brockton, Mass

Plymouth- MASAC replaced Bridgewater

WRAP- Women’s Recovery Addiction Program- Taunton, MA

Women’s WATC in New Bedford, MA

All units- have a holding or transitional support service (TSS) where you can go before a hallway house or sober house

It is recommended when going to

Remember it is important to keep in mind that

The police department can only apprehend a person during court hours

A judge still will see the person once apprehend it and not mandate treatment

They will be provided a lawyer upon the court date

If you need further information on this or help with this section 35 please call me for advice and assistance at (781) 507-2405. If you do not have a ride to court please feel free to call me.

### **How to write an effective Section 35?**

Courts and Judges are analytical and think in legal terms not emotions. At this point of time it is hard not to get upset but try to think clearly and fact based.

Keep it fact based not emotion based, clear and concise and reverse it in chronological logical order. This is so the judge reads it as a legal document.

For example: My son or daughter (name) is (insert the method of using (i.v, smoking, snorting) (insert drug of choice) and (start date)

Next state what has happened recently to get you to section 35]

(Insert date) overdosed

(Insert date) has been hospitalized for medical reasons (insert medical info)

(Insert date) been making threats, breaking in cars, suicidal threats

(Insert date) been arrested

(Insert date) loss of job

Closing statement: Always close your request with:

“I am in fear with my (husband, child’s) life. I believe that they may die and that this section is vital. I would like a warrant of apprehension to save (insert name) life”.

Sign the petition

<b>RESPONDENT INFORMATION FORM</b> AS PROVIDED BY PETITIONER G.L. c. 123 § 35		DOCKET NO. <i>(for court use only)</i>		<b>Trial Court of Massachusetts</b>		
This information is requested to help police identify and locate the Respondent in order to serve the Respondent with any summons or execute any warrant of apprehension pursuant to G.L. c. 123 § 35. Please provide as much information as possible.						
RESPONDENT'S NAME			OTHER NAMES USED BY RESPONDENT, IF ANY			
RESPONDENT'S DATE OF BIRTH		RESPONDENT'S PLACE OF BIRTH		RESPONDENT'S SOCIAL SECURITY NUMBER		
MOTHER'S MAIDEN NAME (FIRST, LAST)			FATHER'S NAME (FIRST, LAST)			
SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE	EYE COLOR	HAIR COLOR	HEIGHT	WEIGHT	BUILD
PHOTO AVAILABLE <i>(HELPFUL FOR ID)</i> PLEASE ATTACH <input type="checkbox"/> YES <input type="checkbox"/> NO	OTHER PHYSICAL CHARACTERISTICS <i>(beard, glasses, scars, tattoos, complexion, hairstyle)</i>					
RESPONDENT'S HOME ADDRESS (NO., STREET, CITY, STATE, ZIP CODE)			APT NO.	FLOOR NO.	NAME ON DOOR/MAILBOX	
RESPONDENT'S HOME PHONE NO.	RESPONDENT'S CELL PHONE NO.	DOES THE RESPONDENT UNDERSTAND ENGLISH? <input type="checkbox"/> YES <input type="checkbox"/> NO		IF NOT, WHAT LANGUAGES?		
RESPONDENT'S EMPLOYER/WORKPLACE			TITLE		DEPARTMENT	
WORK ADDRESS (NO., STREET, CITY, STATE, ZIP CODE)			WORK TELEPHONE NO.		WORK HOURS	
OTHER PLACES RESPONDENT MAY BE FOUND <i>(friends, bars, relatives, hangouts)</i>			BEST PLACE TO FIND RESPONDENT		BEST TIME TO FIND RESPONDENT	
MOTOR VEHICLE LICENSE PLATE	YEAR	MAKE	MODEL	COLOR		
DOES THE RESPONDENT HAVE: <i>(describe briefly)</i>						
A history of violence toward police officers?		<input type="checkbox"/> YES <input type="checkbox"/> NO		_____		
A history of using/abusing drugs or alcohol? If so, what kind?		<input type="checkbox"/> YES <input type="checkbox"/> NO		_____		
Access to guns, a license to carry, or possess a gun? If so, what kind?		<input type="checkbox"/> YES <input type="checkbox"/> NO		_____		
Psychiatric/emotional problems? If so, what kind?		<input type="checkbox"/> YES <input type="checkbox"/> NO		_____		
Any other information which might be helpful in locating the Respondent:						
_____						
_____						
_____						
DATE SIGNED	PETITIONER'S NAME <i>(printed)</i>			PETITIONER'S SIGNATURE		

<b>PETITION FOR COMMITMENT FOR ALCOHOL OR SUBSTANCE USE DISORDER G.L. c. 123, § 35</b>	DOCKET NO.	<b>Trial Court of Massachusetts</b>	
	DIVISION		
IN THE MATTER OF (name of respondent)	SOCIAL SECURITY NUMBER (respondent)	DOB OR AGE (respondent)	GENDER (respondent) <input type="checkbox"/> Male <input type="checkbox"/> Female

**PETITION FOR COMMITMENT  
FOR ALCOHOL OR SUBSTANCE USE DISORDER  
G.L. c. 123, § 35**

The undersigned Petitioner hereby applies to this court for an order committing the Respondent named above for inpatient care and treatment for an alcohol or substance use disorder for a period not to exceed 90 days under the provisions of G.L. c. 123, § 35.

The Petitioner has reason to believe that the Respondent has an alcohol or substance use disorder, and petitions the court to find there is a likelihood of serious harm as a result of the Respondent's chronically or habitually consuming or ingesting alcoholic beverages and/or controlled substances or intentionally inhaling toxic vapors to the extent that such use substantially injures the respondent's health or substantially interferes with the Respondent's social or economic functioning, or that the Respondent has lost the power of self-control over the use of such beverages and/or substances.

**Reasons Respondent may not appear before the Court if summonsed, and reasons Respondent is in immediate danger:**

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DATE SIGNED	PETITIONER'S SIGNATURE UNDER THE PAINS AND PENALTIES OF PERJURY		
PETITIONER'S PRINTED NAME		PETITIONER'S TITLE OR RELATIONSHIP, IF ANY, TO RESPONDENT	
PETITIONER'S CELL PHONE	PETITIONER'S HOME PHONE	PETITIONER'S WORK PHONE	

**EXCERPTS FROM G.L. c. 123, §§ 1 and 35**

**G.L. c. 123, § 1. Definitions.** "Likelihood of serious harm", (1) a substantial risk of physical harm to the person himself as manifested by evidence of, threats of, or attempts at, suicide or serious bodily harm; (2) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior or evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them; or (3) a very substantial risk of physical impairment or injury to the person himself as manifested by evidence that such person's judgment is so affected that he is unable to protect himself in the community and that reasonable provision for his protection is not available in the community."

**G.L. c. 123, § 35. Commitment for alcohol or substance use disorder.** "Alcohol use disorder", the chronic or habitual consumption of alcoholic beverages by a person to the extent that (1) such use substantially injures the person's health or substantially interferes with the person's social or economic functioning, or (2) the person has lost the power of self-control over the use of such beverages."

"Substance use disorder", the chronic or habitual consumption or ingestion of controlled substances or intentional inhalation of toxic vapors by a person to the extent that: (i) such use substantially injures the person's health or substantially interferes with the person's social or economic functioning; or (ii) the person has lost the power of self-control over the use of such controlled substances or toxic vapors."

"Any police officer, physician, spouse, blood relative, guardian or court official may petition in writing any district court . . . for an order of commitment of a person whom he has reason to believe has an alcohol or substance use disorder. . . . [T]he court shall immediately schedule a hearing on the petition and shall cause a summons and a copy of the application to be served upon the person . . . . [I]f there are reasonable grounds to believe that such person will not appear and that any further delay in the proceedings would present an immediate danger to the physical well-being of the respondent, said court may issue a warrant for the apprehension and appearance of such person before it. If such person is not immediately presented before a judge of the district court, the warrant shall continue day after day for up to 5 consecutive days, excluding Saturdays, Sundays and legal holidays, or until such time as the person is presented to the court, whichever is sooner; provided, however that an arrest on such warrant shall not be made unless the person may be presented immediately before a judge of the district court. . . . The court shall order examination by a qualified physician, a qualified psychologist or a qualified social worker."

"If, after a hearing which shall include expert testimony and may include other evidence, the court finds that such person is an individual with an alcohol or substance use disorder and there is a likelihood of serious harm as a result of the person's alcohol or substance use disorder, the court may order such person to be committed for a period not to exceed 90 days to a facility designated by the department of public health, followed by the availability of case management services provided by the department of public health for up to 1 year; provided, that a review of the necessity of the commitment shall take place by the superintendent on days 30, 45, 60 and 75 as long as the commitment continues. A person so committed may be released prior to the expiration of the period of commitment upon written determination by the superintendent of the facility that release of that person will not result in a likelihood of serious harm. Such commitment shall be for the purpose of inpatient care for the treatment of an alcohol or substance use disorder in a facility licensed or approved by the department of public health or the department of mental health. Subsequent to the issuance of a commitment order, the superintendent of a facility may authorize the transfer of a patient to a different facility for continuing treatment . . . ."

"If the department of public health informs the court that there are no suitable facilities available for treatment licensed or approved by the department of public health or the department of mental health, or if the court makes a specific finding that the only appropriate setting for treatment for the person is a secure facility, then the person may be committed to: (i) a secure facility for women approved by the department of public health or the department of mental health, if a female; or (ii) the Massachusetts correctional institution at Bridgewater, if a male; provided, however, that any person so committed shall be housed and treated separately from persons currently serving a criminal sentence. The person shall, upon release, be encouraged to consent to further treatment and shall be allowed voluntarily to remain in the facility for such purpose."

**APPLICATION FOR WARRANT OF APPREHENSION (Section 35)**

When completing form Please Print: (use back of form if needed)

**Person Requesting Warrant:**

NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TOWN: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

Your Relationship to Subject: \_\_\_\_\_

**Please fill out the following information to the best of your knowledge. Please write "unknown" for any information you do not have.**

**Information about Subject:**

NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TOWN: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

SOCIAL SECURITY # \_\_\_\_\_ Age: \_\_\_\_\_ Date Of Birth: \_\_\_\_\_

Current Whereabouts: \_\_\_\_\_

Please list other members of subject's household, other family members, significant other's etc.  
(Please provide address and telephone #s where possible)

NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

Please specify when and where you last had contact with the subject:

\_\_\_\_\_

**Present Risk of Harm to Subject or Other(s):** please specify how the subject is presenting as a current danger to him/herself or others due to substance use issues (Use back of form if needed:)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please specify the subject's current state of mind: (coherent, violent, depressed, suicidal etc.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**To the best of your knowledge, please provide the subject's drug and alcohol history:**

How long has the subject been abusing drugs and/or alcohol? \_\_\_\_\_  
Has the subject had any detox hospitalizations? Yes No If yes, how many? \_\_\_\_\_  
Date and place of the subject's most recent detox hospitalization: \_\_\_\_\_

**Mental Health History:**

Does the subject have any mental health diagnosis? Yes No If yes, please specify:  
Current diagnosis: \_\_\_\_\_ Current medications: \_\_\_\_\_

Name(s) of current treatment provider(s) \_\_\_\_\_ Phone: \_\_\_\_\_

Has the subject ever been hospitalized for any mental health concerns? Yes No If yes, please specify:

Date and place of the subject's most recent hospitalization: \_\_\_\_\_

Please specify any history of suicidal threats or attempts: \_\_\_\_\_

**Medical History:**

Please specify any medical issues: \_\_\_\_\_

Please list any medications for medical issues: \_\_\_\_\_

Please list Primary Care Doctor \_\_\_\_\_

Phone: \_\_\_\_\_

**Other:**

Does the subject have medical insurance? Yes No

If yes please specify plan and policy # \_\_\_\_\_

Is the subject employed? Yes No If yes, please specify: \_\_\_\_\_

If no, please specify last time subject worked: \_\_\_\_\_

Please specify the subject's highest level of education completed: \_\_\_\_\_

Please specify any history of threatening or assaultive behavior toward others: \_\_\_\_\_

Please specify any known legal issues: \_\_\_\_\_

Signed under pains and penalties of perjury: \_\_\_\_\_

Date: \_\_\_\_\_