

Iowa Law Overview

A person can start a court proceeding for the involuntary commitment, treatment, or hospitalization of another person who suffers a serious mental impairment or who has a substance-related disorder, or both. The court procedures for each situation are similar but not identical.

Involuntary commitment, treatment, or hospitalization is a restraint on one's liberty and generally involves forcing someone to undergo treatment without that person's consent, which may include confining that person.

If you are beginning commitment proceedings on behalf of another person, you are called the "applicant," and the person who is the subject of concern is called the "respondent."

What is a serious mental impairment?

A person with a serious mental impairment is someone who has a mental illness that causes that person to lack sufficient judgment to make responsible decisions about the person's hospitalization or treatment and who, because of that condition, one of the following applies:

- Is likely to injure the person's self or others if allowed to remain at liberty without treatment.
- Is likely to inflict serious emotional injury on family members or others who lack the reasonable opportunity to avoid contact with the person if the person with a mental illness is allowed to remain at liberty without treatment.
- Is unable to satisfy needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer physical injury, physical debilitation, or death without treatment.
- Has a history of noncompliance with treatment, and that noncompliance has either (1) been a significant factor in the need for emergency hospitalization, or (2) has resulted in acts causing serious physical injury to the person's self or others or an attempt to cause physical injury to the person's self or others.

Iowa Code chapter 229.

What is a substance-related disorder?

A person with a substance-related disorder is a person who has a diagnosable substance-related disorder as defined by the American Psychiatric Association that results in functional impairment, and because of that disorder, the person lacks judgmental capacity and presents a danger to the person's self or others. Iowa Code chapter 125.

How do I start involuntary commitment proceedings?

To start an involuntary commitment proceeding you must file an application and the required supporting documents using the approved forms. All of the approved forms are available from the county clerk of court or at the following web address: <https://www.iowacourts.gov/for-the-public/court-forms/filters/c10f6c6befff47aba85daeafd53da33f>.

The application to start an involuntary commitment based on serious mental impairment is **12.36—Form 1**. The application to start an involuntary commitment based on a substance-related disorder is **13.35—Form 1**.

With the application, you must provide one or more supporting affidavits that corroborate the application, or a written statement of a licensed physician in support of the application, or both. The affidavit for serious mental impairment cases is **12.36—Form 2**; for substance-related disorder cases use **13.35—Form 2**.

File the completed application and accompanying documents with the clerk of court in the county where the respondent resides or is currently located. It may be filed with the court in paper or electronically through the Iowa eFile system, at <https://www.iowacourts.gov/efile/>.

What is the process for involuntary commitment?

When the application is filed, the clerk of court will docket the case and notify a judge who will review the application and accompanying documents. The sheriff will receive notification to serve the respondent with the application and accompanying documents. The county attorney will be notified and also have access to the documents.

You may request that the respondent be taken into immediate custody. If the judge finds probable cause to believe that the respondent has a serious mental impairment or substance-related disorder and is likely to cause injury to him or herself or others if allowed to remain at liberty, the judge may order the respondent to be detained until the hearing.

If the application is adequate, the judge will set the matter for hearing. The hearing will be at least forty-eight hours after notice was provided to the respondent. Before the hearing, the court may require a physician to examine the respondent and file a report.

At the hearing for a matter concerning serious mental impairment, the county attorney will present evidence in support of the contentions in the application. At a hearing concerning an allegation of a substance-related disorder, the evidence may be presented by the county attorney or by you or your attorney.

You and the respondent will each be allowed to testify and to present and cross-examine witnesses and present other evidence. Only persons necessary for the hearing will be allowed to attend. The proceedings are a civil matter, not criminal, and the respondent's wellbeing is the paramount concern. You, as the applicant, will have the burden of proving the contents of the application for commitment, namely that the respondent is seriously mentally impaired or has a substance-related disorder, by clear and convincing evidence.

Will there be an attorney to represent me or the respondent?

The court will determine if the respondent has an attorney, and if not, the court may appoint an attorney if the respondent is unable to pay for an attorney. If the application alleges serious mental impairment, the court may also appoint a mental health advocate for the respondent. Iowa Code section 229.19.

If the application for commitment is for a substance-related disorder, the court may appoint an attorney for you if legal representation is necessary to assist you in a meaningful presentation of evidence and you are unable to pay for an attorney. Iowa Code section 125.78.

What happens after the hearing?

After the hearing, the judge will make a decision. The judge may either dismiss the case or order the person to be committed for treatment, which may include ordering placement at a particular facility for treatment. Iowa Code chapters 125 and 229.

Can the decision be appealed?

The decision of the judge can be appealed. If the judge who decided the case was a magistrate, then the respondent has 10 days to file an appeal with the district court. A decision of a district court judge can be appealed to the Iowa Supreme Court within 30 days.

What rights does a person have after being committed?

After the person is committed, the person will be evaluated regularly by a medical officer. The medical officer will file regular reports and indicate whether the person needs further treatment. The reports will also indicate if the person can be released or if the person needs a different placement. Each time there is an order about placement notice must be given to the respondent, and the respondent has the right to ask for a court hearing on placement. Additionally, a person who has been committed also has the right to request to be released.

If a person under commitment has questions about his or her rights, he or she should speak to an attorney. If the application alleges serious mental impairment, the assigned mental health advocate will also represent the interests of the person under commitment.