

You have the **right to a review hearing** within the 45 days you were ordered for involuntary commitment to determine whether you continue to need treatment at the facility.

Notice of the review hearing shall be given to you and your attorney, if you have one, at least 6 days prior to the hearing. If you do not have an attorney at the time you receive the notice, the Chair of the County Board of Mental Illness or Tribal Court Judge shall immediately appoint an attorney to represent you.

If continued treatment is necessary, then you may be ordered to stay another 45 days. Any additional review hearing must be done at least every 45 days that you remain under commitment. If the County Board or Tribal Court determines you do not need continued treatment, you will be discharged from the facility to your parent, guardian, or other legal custodian. **NO TEMPORARY PERIODS OF INVOLUNTARY COMMITMENT MAY BE AUTHORIZED.**

**The information in this brochure does not apply to minors committed by the Department of Corrections. **

IF YOU FEEL ANY OF YOUR
LEGAL RIGHTS HAVE BEEN
DENIED AS DESCRIBED IN THIS
BROCHURE, YOU MAY
CONTACT



PAIMI PROGRAM AT

1-800-658-4782

(In-State Only)

or

(605) 224-8294

Voice & TDD

www.drdsdlaw.org

The purpose of this brochure is to inform, not advise. If you have questions about this information, please contact your attorney. You can also contact an advocate with the PAIMI Program.

*Funded by the U.S. Department of Health and Human Services,
Substance Abuse and Mental Health Services Administration,
Center for Mental Health Services.*

Revised 9/10/2018



INVOLUNTARY COMMITMENT TO AN INPATIENT PSYCHIATRIC FACILITY OF A PERSON UNDER THE AGE OF 18

* * * *

KNOW YOUR RIGHTS

A Publication of
The Protection & Advocacy
for Individuals with
Mental Illness (PAIMI) Program
Disability Rights South Dakota
(605) 224-8294 (Voice or TDD)
or
1-800-658-4782 (in state only)
www.drdsdlaw.org

Any person 18 years of age or older can file a petition for **involuntary commitment** with the Chairman of a County Board of Mental Illness or with a Judge in Tribal Court to have you taken into custody to protect you from harming yourself or others. This petition will include the reasons why the person filing the petition feels you need immediate intervention and is a request to have you taken to an inpatient psychiatric facility.

If the Chairman of the County Board of Mental Illness or Tribal Court Judge decides that you need to go to an inpatient facility, you will be transported to the facility by a police officer. Even if a petition is not filed, a police officer has the authority to detain you if he/she believes you need emergency intervention. If this is the situation, the police officer must try to contact your parent, guardian, or other legal custodian.

Immediately after you are taken into custody by the police officer, the officer must tell you of your **rights**:

- (1) To immediately contact your parent, guardian, or any other person you choose to contact;
- (2) To contact and be represented by an attorney;
- (3) That you will be examined by a qualified mental health professional within 24 hours to decide whether you should stay at the facility; and

(4) If the mental health professional decides you should stay at the facility, you have the **right** to have a hearing within 5 to 7 days, depending on if there is a Saturday, Sunday or holiday within that time frame.

After you are examined by a mental health professional, you will either be released from the facility or a hearing will be held.

IF A HEARING IS TO BE HELD, the County Board of Mental Illness or Tribal Court Judge will listen to the mental health professional who examined you, your parent, guardian, or other legal custodian and you to decide whether you need to be treated at the facility. You do not have to talk at the hearing if you do not want to. You will have an attorney to represent you at the hearing.

The County Board of Mental Illness or Tribal Court Judge must find that the following criteria have been met before they order your involuntary hospitalization:

(1) You have a “**serious emotional disturbance**”, which means that your behavior has seriously interfered with how you are acting in the community, at school or with your family; that a mental health professional has recognized there is a mental disorder; that you have a need for someone to take care of you; and that your difficulties may last a long time or may last for a short time but are really intense; and

(2) Your thinking is confused and your behavior is inappropriate **OR** you think about suicide **OR** you are severely depressed, sad and you cannot eat or sleep; and

(3) You are a danger to yourself or to others; and

(4) You can be helped at the inpatient facility.

Delinquent behavior alone does not mean you have a serious emotional disturbance.

If the County Board of Mental Illness or Tribal Court finds that you met the criteria listed above, they may order involuntary commitment for a period not to exceed 45 days. Within 10 days after the involuntary commitment and at least every 30 days after that, the facility administrator must assess the need for your involuntary treatment. If it is determined that you do not need further treatment, the facility administrator may discharge you to your parent, guardian, or other legal custodian.

If your parent, guardian, or other legal custodian refuses to remove you from the facility, this is not enough of a reason to continue the commitment. The facility administrator or director must explain to your parent, guardian, or other legal custodian about any alternative treatment options and must advise your parent or guardian that their refusal to remove you from the facility could result in the facility reporting this to the state's attorney for further action.