Laws Authorizing Involuntary Commitment for Substance Use

Prepared by the Health in Justice Action Lab

SUMMARY

In the context of the current opioid crisis in the US, there has been renewed attention to -- and legislative interest in -- involuntary commitment of individuals for substance use and addiction. This dataset identifies variation in state laws across all 50 states and the District of Columbia as of March 1, 2018 that govern the procedures used to place an individual into involuntary commitment for substance use. It catalogs the statutory standards authorizing commitment, parties authorized to petition for a commitment, provisions surrounding clinical assessments, parameters of judicial review, time periods for commitment authorization, allowable treatment, and procedures for recommitment.

ABOUT STATE INVOLUNTARY COMMITMENT FOR SUBSTANCE USE LAWS & THE DATA

In parallel to the existing LawAtlas datasets on civil commitment for mental health, this dataset analyzes key features of involuntary commitment laws specifically focused on substance use. Involuntary commitment for substance use laws authorize designated facilities to hold an individual engaged in substance and/or alcohol use, without their consent, for a period of time. While the structure of this authorization varies across jurisdictions, the proceedings are usually initiated based on the individual’s substance use presenting as a danger to themselves or others, as causing the individual to be gravely disabled, or as impairing or eliminating their self-control.

According to the data included in this cross-sectional analysis, as of March 1, 2018, 37 states and Washington, DC, authorize some form of involuntary commitment procedure specifically for substance use. Some states include substance use within their definitions of mental illness and thus include these provisions within their broader involuntary commitment laws. However, a majority of the states with these types of provisions have state laws explicitly authorizing commitment of substance users.

Involuntary commitment requires a designated petitioner to articulate a case for commitment, which is then presented before a court. In all 37 states and Washington, DC, the individual...
facing commitment must also be evaluated by an authorized clinician. The results of this assessment are considered as part of the case for commitment. However, the results of these assessments are non-binding on the judge’s commitment decision in all but three jurisdictions. In many states, these assessments may also be performed after the individual has been taken into custody. Once committed, the provisions vary widely across jurisdictions and authorize the individual to be held without consent for time periods ranging from three days to a year (median=90 days).

Statutory standards setting out the setting and care of an individual’s commitment varies state by state. This ambiguity is especially significant in the context of the ongoing national debate about the quality and accessibility of evidence-based practices for substance use treatment. Research has firmly established detoxification “treatment,” involuntary, and correctional settings as a driver of overdose risk among people who use opioids. While several states do offer medication-assisted treatment in involuntary settings, universal access to evidence-based treatment is not currently mandated by statute in any jurisdiction. This dataset also identified that 16 states’ legislation authorizes various forms of forced treatment, including restraint, forced medication and even surgery.

Depending on the state, a number of due process rights are provided to the individual as part of involuntary commitment statutes for substance use. This includes the right to counsel and visitors.

This map presents statutes and regulations that authorize the involuntary commitment of substance users, in effect as of March 1, 2018. It catalogs the statutory standards authorizing commitment, parties authorized to petition for a commitment, provisions surrounding clinical assessments, parameters of judicial review, time periods for commitment authorization, allowable treatment, and procedures for recommitment.

**NAVIGATING THE DATA**

There are two ways to navigate the data by clicking the **Filter** tab or the **Explore** tab — for each option, the data can be visualized in a map and table format or in jurisdiction profiles.

**Filter**

The dataset homepage will default to the Filter tab. Here, users may answer a series of questions to learn more about the characteristics of the laws. Answering more than one question will show all the jurisdictions that meet the combined criteria. Criteria selected will be listed above the questions, and can be removed by clicking the white X or by clicking “Reset” above the questions.

**Explore**

Users can access Explore by clicking the Explore tab in the bar above the questions. Using Explore, users will see the answers to one question across all jurisdictions.

The primary questions addressed are:

1. Is substance use disorder grounds for involuntary commitment under state law?
2. Under which circumstances can an individual be held for involuntary commitment due to substance use disorder?
3. What is the maximum duration of an initial involuntary commitment?
4. Who can initiate involuntary commitment?
5. Is judicial review of the involuntary commitment required?
6. Is a clinical assessment required to involuntarily commit a patient due to substance use disorder?
7. What type of health care professional performs the assessment?
8. Does the individual have a right to counsel at the commitment hearing?
9. Can an involuntary commitment be extended without a court order?
10. What must be provided to a patient who has been committed?
11. What treatments can be performed without patient consent?
12. Is there a recommitment process?

DISPLAYING THE RESULTS

There are two display modes once criteria have been selected by using either the Filter or Explore tab — **Map display mode and Profiles display mode.**

**Map Display**

LawAtlas.org dataset homepages default to the map display mode. When querying the data using the Filter tab, all jurisdictions that meet the criteria selected will display in one tone of yellow. Those jurisdictions that do not meet the criteria selected will be colored gray. When querying the data using the Explore tab, the map will illuminate with colors from yellow to red that are associated with the various answer choices (the color-coding is defined by the key to the left of the map).

Below the map, a table will appear. Using the Filter or Explore tab to navigate the questions will change the display:

- Using the Filter tab, you can select an unlimited number of criteria and the applicable jurisdictions that meet the combined criteria will be displayed in the table below.
- Using the Explore tab, you can isolate a single criterion and the applicable jurisdictions will appear in the table below.

**Profiles Display**

The Profiles display presents the results of the criteria selected in a text-based format for each applicable jurisdiction. Using the Filter tab, jurisdictions that meet the criteria selected will display. Using the Explore tab, jurisdictions that meet the criterion selected will display. If no criteria are selected, the full profiles for each state will appear under both Filter and Explore.

**Profile Legend**

Within each Profile box, above the questions and answers, there are additional options and information useful in exploring the law:

<table>
<thead>
<tr>
<th>$$$</th>
<th><strong>Toggle Legal Text</strong> – Selecting this option will show all the legal text used to answer questions for this jurisdiction.</th>
</tr>
</thead>
<tbody>
<tr>
<td>☀️</td>
<td><strong>Toggle Full Place Profile</strong> – Selecting this option will show all questions and answers for this jurisdiction, regardless of what was selected using the Filter or Explore tabs.</td>
</tr>
</tbody>
</table>
**Toggle Size** – Selecting this option will make the profile larger, but will not change the information displayed.

**Legal Text History** – This interactive timeline displays when changes in the law have occurred within a jurisdiction. Using the arrows to the left or right, users may explore how the law has changed over time as new amendments to the law have been enacted. The timeline will change from gray to a shade of yellow when the jurisdiction passed its first relevant law. Each change in the law after that is marked by a break in the timeline.

![Timeline](image)

**Map and Profile Legend**

There are a few symbols to be aware of in both Map and Profiles display modes:

<table>
<thead>
<tr>
<th>Symbol</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>§</td>
<td><strong>Section Symbol</strong> – Clicking this symbol will open a window that displays excerpts from the law that correspond to the question and answer.</td>
</tr>
<tr>
<td>!</td>
<td><strong>Caution Note</strong> – Clicking on this symbol will open a small window that displays text that describes important caveats about the question and answer.</td>
</tr>
</tbody>
</table>

**DATASET RESOURCES**

Each dataset homepage includes the following resources available for download:

- **Data**: The Data file exports in CSV format and may contain two tabs. The “Statistical Data” tab contains the legal variables coded in the dataset, displayed as values defined in the accompanying Codebook. The “Summary Data” tab contains the legal variables coded in the dataset in text form, as well as the accompanying citations and any caution notes that may be included. Note: if there is only one tab available for download it will be the “Statistical Data” as described above.

- **Codebook**: The Codebook defines all of the coded variables in the dataset. The Codebook lists the question, question type, variable name, variable value and variable label. The Codebook should be used in conjunction with the Statistical Data extract.

- **Research Protocol**: The Research Protocol is a comprehensive document that outlines the entire methodology of the project, including the scope, inclusion and exclusion criteria, data collection methods, definitions, coding scheme decisions, as well as the quality control process.

- **Summary Report**: The Summary Report provides a snapshot of important findings from the dataset.
ADDITIONAL INFORMATION

Leo Beletsky, Associate Professor of Law at Northeastern University School of Law, served as a subject matter expert for this project.

This collection of laws does not provide legal advice nor does it address enforcement of laws, administrative policies, case law, or any other sources of law. Should you have a specific question about these laws in your state, please contact an attorney in your jurisdiction.