

Emergency Procedure for Substance Abuse Commitment

When an individual subject to substance abuse commitment (i.e., is a substance abuser and dangerous to himself or others) is also violent and requires restraint, and the delay caused by taking him to a local physician or eligible psychologist would likely create a danger to life or property, a law enforcement officer may take the person into custody, take him immediately before a magistrate, and petition for an order to take the individual directly to a 24-hour facility.

A substance abuser who is dangerous to himself or others
+
Who is violent and requires restraint
+
When delay creates a danger to life or property

1. Only a law enforcement officer may execute this emergency petition.
2. The petition (AOC-SP-909M) must not only state facts supporting a finding of substance abuse and dangerousness (i.e., the normal commitment criteria), but also must state facts that would support a finding that (a) the individual subject to commitment is violent and requires restraint and (b) the delay caused by taking him to a local physician or psychologist would likely create a danger to life or property.
3. Contrast to typical substance abuse custody order: Under the emergency procedure the individual is already in law enforcement custody before the petitioner goes to the magistrate; the magistrate orders that the individual be taken directly to a 24-hour facility, rather than to a local physician or eligible psychologist for examination.
4. Standard for emergency order: In addition to finding reasonable grounds to believe that the individual is probably a substance abuser and dangerous to himself or others, the magistrate or clerk of court must find by clear, cogent, and convincing evidence that the respondent is violent and requires restraint, and that delay in taking the respondent to a physician or eligible psychologist for examination would endanger life or property.