

Involuntary Commitment for American Indians In Arizona



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Definition – Involuntary Commitment



- **Involuntary commitment is a legal AND a clinical process by which an individual may be ordered by a court to be assessed, evaluated and treated.**
- **The legal process is a court order which orders treatment and which limits an individual's civil liberty when that person as a result of a mental disorder may be:**
 - A danger to self (DTS);**
 - A danger to others (DTO);**
 - Persistently or acutely disabled (PAD); or**
 - Gravely disabled (GD)**
- **This is also a clinical process where by a behavioral evaluation is conducted to document a mental disorder**

Involuntary Commitment in Arizona



Is a civil legal action with BH requirements governed by ARS Title 36

- The individual must have legal representation as their civil rights are being removed.
- There must be a finding of danger to self, and/or danger to others, and persistently or acutely disabled or gravely disabled as a result of a mental disorder.
- Treatment must be combination of inpatient and outpatient treatment and per ARS 36-540, treatment must be the least restrictive option.
(in other words, the Arizona State Hospital is the treatment of last resort.)

Involuntary Commitment Under Arizona Jurisdiction



- **County Courts oversee Involuntary Commitments under ARS Title 36**
- **Counties contract with behavioral health agencies for court ordered evaluations (COE) before court ordered treatment (COT) - Payment for this COE is through the counties**
- **SEE AHCCCS behavioral health provider manual, regarding Pre-Petition Screening, Court Ordered Evaluation(COE) & Court Ordered Treatment(COT).**

What is ARS 12-136 ?



An Arizona law which provides for the recognition and enforcement or “domestication” of tribal court orders for involuntary commitment to treatment including admission to the Arizona State Hospital (AzSH) for American Indians residing on tribal reservations.

Why ARS 12-136 ?



The AZ statute is necessary because Tribal governments are sovereign and have sole jurisdiction over Tribal members on reservations.

BUT only Arizona courts (not tribal courts) have authority over programs or facilities under state jurisdiction.

THEREFORE, ARS 12-136 allows state courts to “recognize” tribal court orders and be enforceable against state facilities.

Involuntary Commitment under Tribal Law

Legal Process is conducted by tribal courts using tribal codes &/or authorities and then “recognized” by state courts for implementation in non-tribal treatment facilities located off-reservation.

Clinical Process is more complex due to the complexity of various health care delivery systems serving American Indians – IHS, Tribal health programs, RBHAs, Arizona State Hospital

Involuntary Commitment under Tribal Law

- Tribes are sovereign nations. There are 22 federally recognized tribes in AZ.
- Each tribe has its own legal codes and legal procedures. Only 5 tribes have an Involuntary Commitment tribal code. However, most tribal courts are authorized by their constitution to “protect & safeguard” their tribal members. Several tribes are in the process of enacting Involuntary Commitment codes.
- Tribes have sole jurisdiction over their tribal members **LIVING ON TRIBAL LANDS.**

Use of ARS Title 136



Get to know your COUNTY COURT CLERK!!!!

Tribal Court orders need to be filed with the County Court Clerks to initiate “domestication” (recognition) of tribal court orders under ARS 12-136.

SEE FLOW CHART HANDOUT.

Sources of Issues



Legal, jurisdictional, and continuity of care issues exist related to:

- Lack of understanding of tribal sovereignty and jurisdiction over tribal members and the limits of that tribal jurisdiction
- Lack of coordination of care for American Indians
- Lack of a range of comprehensive services and facilities located on reservations
- Lack of coordination between IHS, 638, and state behavioral health providers.
- Lack of understanding and access to the unique AZ managed care behavioral health care system

AZ BH Managed Care System



Impacts on the process of involuntary commitment of American Indians

- Enrollment with the RBHA – AHCCCS eligible
- Prisoner who has been sentenced? (NOT eligible for TXIX behavioral health benefits if sentenced)
- Coordination of care issues, tribal programs, RBHA and RBHA providers.
- Lack of time for work between systems

Making the Process Work Better



- **Direct agreement for admission by tribes with the Az State Hospital.**
- **Revise ARS 12-136**
- **Training and increased awareness of the present process, ARS 12-136**
- **Continue to recognize the sovereignty of tribes.**