

Effective Representation in the Commitment Process

See Minnesota Rules of Professional Conduct, Minnesota Commitment and Treatment Act, and Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act.

What can I expect from my attorney?

Your attorney should be a vigorous advocate for you in the commitment process.

- Your attorney should be familiar with laws and rules that govern commitment proceedings.
- Your attorney must represent you in all your commitment court hearings unless permitted to withdraw by the court of law. This person will remain your attorney until the commitment ends.

Your attorney should explain the civil commitment process to you.

- Prior to the Preliminary Hearing (held within 72 hours of being placed on a judicial hold), your attorney should explain the commitment process to you.
- Your attorney should review the petition and all supporting documentation. You should have a full understanding of your options to resolve the matter, what to expect at the time of the hearing, and be fully prepared to testify at the hearing.
- Your attorney should provide information to you about your rights. These rights include the right to testify, the right to a second examiner, the right to have witnesses and the right to cross-examine witnesses.

Your attorney should listen to you.

- You should be involved in all aspects of the defense of your case. You have the right to be heard and have a voice in the process. If you provide guidance in the following areas, your attorney must follow your instructions:
 - A. goal for final resolution and resolutions you oppose;
 - B. waiving your right to attend the hearings;
 - C. testifying on your own behalf; and
 - D. demanding an immediate hearing or consenting to continuances.
- If you do not express an opinion on any aspect of the proceedings, your attorney must take a position that preserves your rights.

Your attorney should review records and interview witnesses that may support your position at the commitment hearing.

- Your attorney should spend time reviewing all documentation with you, including medical records, the pre-petition screening report, and the petition.

- Your attorney should seek out family members, friends, advocates and others who can provide information that supports your position. You can help by giving your attorney names of individuals who are aware of your situation.

Your attorney should explore all less restrictive alternatives.

- By law the court must consider less restrictive alternatives than commitment. If the court decides you should be committed, the court must commit you to the least restrictive treatment facility or program that can meet your needs.
- Your attorney should be aware of and explore the less restrictive alternatives with you. Your county case manager, local advocacy organizations and provider and facility organizations may also be of assistance in finding less restrictive alternatives that can meet your needs.

To provide effective representation your attorney should always ask you the following questions.

- What outcome are you looking for in your case? Sometimes defense attorneys forget they are representing your interests and not your best interest.
- Have you had mental health treatment in the past and did it work for you?
- Do you have a treating psychiatrist in the community?
- Do you have any supportive family members, friends, etc.?
- Do you have a guardian or conservator?
- Do you have an advance psychiatric directive or health care directive in place?
- Have things changed since the county filed the petition? Are the allegations in the petition based on old information?

ADA Statement: If you have a disability and want this notice in a different format you may request this from the county. For more detailed information on the commitment process, contact the Office of the Ombudsman for Mental Health and Developmental Disabilities, 332 Minnesota Street, Ste W1410, First National Bank Building, Saint Paul, Minnesota 55101-2117, <https://mn.gov/omhdd/> Voice: 651-757-1800 or Toll Free: 1-800-657-3506.