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Involuntary addiction treatment has been around for 50 years. But those forced to use Section 35 say the system is broken.

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The state's Section 35 law, meant to save those on the brink of death from addiction, is under fire from all sides as advocates call for it to be restructured - or eliminated altogether.

Wendy Myrer was at her wit's end in November. Her 26-year-old daughter was deep into heroin, and Myrer feared she was going to overdose.

So Myrer did what she thought would help, what she had done with this daughter before and had done only a few days earlier with her other, younger daughter. She went to Hingham District Court to ask a judge to have her daughter detained against her will and forced into treatment.

"I thought she was going to die," Myrer said. "I was horrified. I feared for her life."

Police eventually caught up with Myrer's daughter in Hull and took her before a judge, who had her "sectioned" under a state law, known as Section 35, that is meant to pull people struggling with alcohol or drug addiction back from the brink before it's too late.

Today the law faces criticism from all sides: from critics who say it violates civil liberties by essentially jailing people who have committed no crime, from clinicians who say its effectiveness is unproven and that it may put addicts at a greater risk of overdosing when released, and from families who say it should be strengthened to allow police to more quickly get people in danger off the street.

Under the law, immediate family members, police officers, court officers and physicians can petition courts to have someone facing “a likelihood of serious harm” brought in, evaluated by a medical professional and sent to a secure treatment facility for up to 90 days. Judges granted more than 80 percent of the Section 35 requests they heard in fiscal 2018, sending more than 6,000 people into forced treatment, according to the state Department of Mental Health. The number of people committed under the law has grown alongside the state’s opioid epidemic, increasing by more than 47 percent in the last eight years.

A state commission studying the law issued a report this past summer that found a series of problems with the way the law is implemented and recommended, among other things, that the state work to reduce or eliminate the use of Section 35 by providing other alternatives for treatment.

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“Section 35 might not be the solution to our opioid problem, but it’s definitely a critical component along with providing more treatment facilities and post-treatment programs for addicts,” said Weymouth police Capt. Richard Fuller, who will soon take over the department as chief. “Section 35s are normally for addicts with multiple overdoses who have had failures with treatment programs and detoxes that are unable to seek help when they need it. For many families, it’s a last resort that could save their loved one’s life.”

Paper warrants

Wendy Myrer would like to see police departments and the courts be more aggressive in seeking out people who have been sectioned.

Under current practice, courts issue a single paper warrant by fax to the police department in the city or town where the sectioned person is believed to be. The section warrant is only good for five days, excluding weekends and holidays, and can only be served during the hours in which court is

open, to avoid having a person being sectioned sit in jail overnight. It differs significantly from an arrest warrant, which is electronically transmitted to all police departments and can be served any time.

Myrer's older daughter was in Weymouth when Myrer petitioned the court, so the section warrant went there first. The daughter ended up going to Braintree, Hingham and eventually Hull during the five days, which meant the warrant had to be transferred between police departments, making Myrer increasingly anxious as she waited for her daughter to be found.

Most people interviewed for this story said that transferring warrants typically isn't a problem, but Braintree police Sgt. Jamie Mosesso, who works on the department's family services unit, said making the warrants more accessible might help.

"Anything electronic could make the process smoother. If there was a way to enter them into the system, similar to a criminal warrant, so if a person's name is run, it comes up as them having a Section 35," Mosesso said. "I am sure there are times when we come into contact with individuals that have a Section 35 and we are not aware."

Inconsistent treatment

Myrer's daughter was eventually picked up in Hull, taken to Hingham District Court and sent to a treatment facility in Taunton. Both of Myrer's daughters were sectioned that week, and she said they received different levels of treatment depending on which facility they ended up in.

The Section 35 commission recommended standardizing care among the seven facilities where sectioned people are treated. Those facilities are managed by different agencies, including the state Department of Correction, the state Department of Health and the Hampden County sheriff's office.

The commission also urged the state to make sure people continue to get help after they're released, rather than leaving them on their own.

In November, Myer's older daughter was sent to the Women's Recovery from Addiction Program at Taunton State Hospital run by the state Department of Mental Health, while the younger daughter ended up at High Point Women's Addiction Treatment Center in New Bedford, run by the state Department of Public Health. Myrer said the facility in Taunton previously provided better treatment for her daughter and set her up with a plan for services when she left.

In New Bedford, she said, "it was 21 days and ship them out."

In response to questions about post-release treatment plans, the Department of Public Health issued a statement saying that each person committed under Section 35 receives individual treatment and aftercare plans based upon their needs.

"Upon determination that the individuals no longer meets the commitment criteria and is ready for discharge, individualized discharge plans are developed with the individual including aftercare," the spokesperson said. "Case-management services are available to be provided for up to 1 year post-discharge."

Dr. David Munson, the medical director for respite programs at the Boston Health Care for the Homeless Program and a member of the Section 35 commission, said post-treatment care is critical for keeping people alive after they're sectioned. Tolerance for opioids decreases while a user is

recovering and not actively using, Munson said, creating a higher risk for overdose if a person uses again after treatment.

“We’ve had story after story of folks who had been put on a commuter rail train from Bridgewater and show up at South Station after a section. So that doesn’t do anybody any good,” Munson said. “And their risk of, especially the folks that are there for opioids, the risk of overdose death is pretty high. The state hasn’t released that data, but the risk of overdose death after a section would be akin to overdose death after release from incarceration, which we know is really high.”

The commission also recommended studying the efficacy of Section 35s, a process the commission said is lacking much research. In a statement, the state Department of Health said it doesn’t have its own data on the efficacy of Section 35 either.

Munson said that when he worked with a medical street team providing services for homeless people, he would only seek to section people in imminent danger because he didn’t believe it was a good way to get them into treatment.

“I don’t think a Section 35 helps to keep people engaged in care,” he said. “I think it helps to drive people away.”

Patients treated like prisoners

A persistent argument against Section 35 is that it treats patients like prisoners, forcing them to appear in a courtroom, wear handcuffs and ride in a sheriff’s transport vehicle to a secure facility.

“Many of the problems with Section 35 stem from dealing with this problem through the courts,” said state Rep. Ruth Balser, a Newton Democrat who also sat on the commission.

Balser has introduced legislation that would change treatment options for sectioned men, taking their care out of jail-like facilities in Plymouth, Springfield and Ludlow. Women are no longer treated in correctional facilities as part of Section 35 because of a prior lawsuit against the state.

There are 250 beds for Section 35 treatment at the Massachusetts Alcohol and Substance Abuse Center in Plymouth, a former low-security prison camp run by the Department of Correction. Another 117 beds for Section 35 treatment are in facilities in Springfield and Ludlow run by the

Hampden County Sheriff's Department. The facility in Ludlow is in a county jail.

Only one site for men, in Bridgewater, is run by the Department of Health.

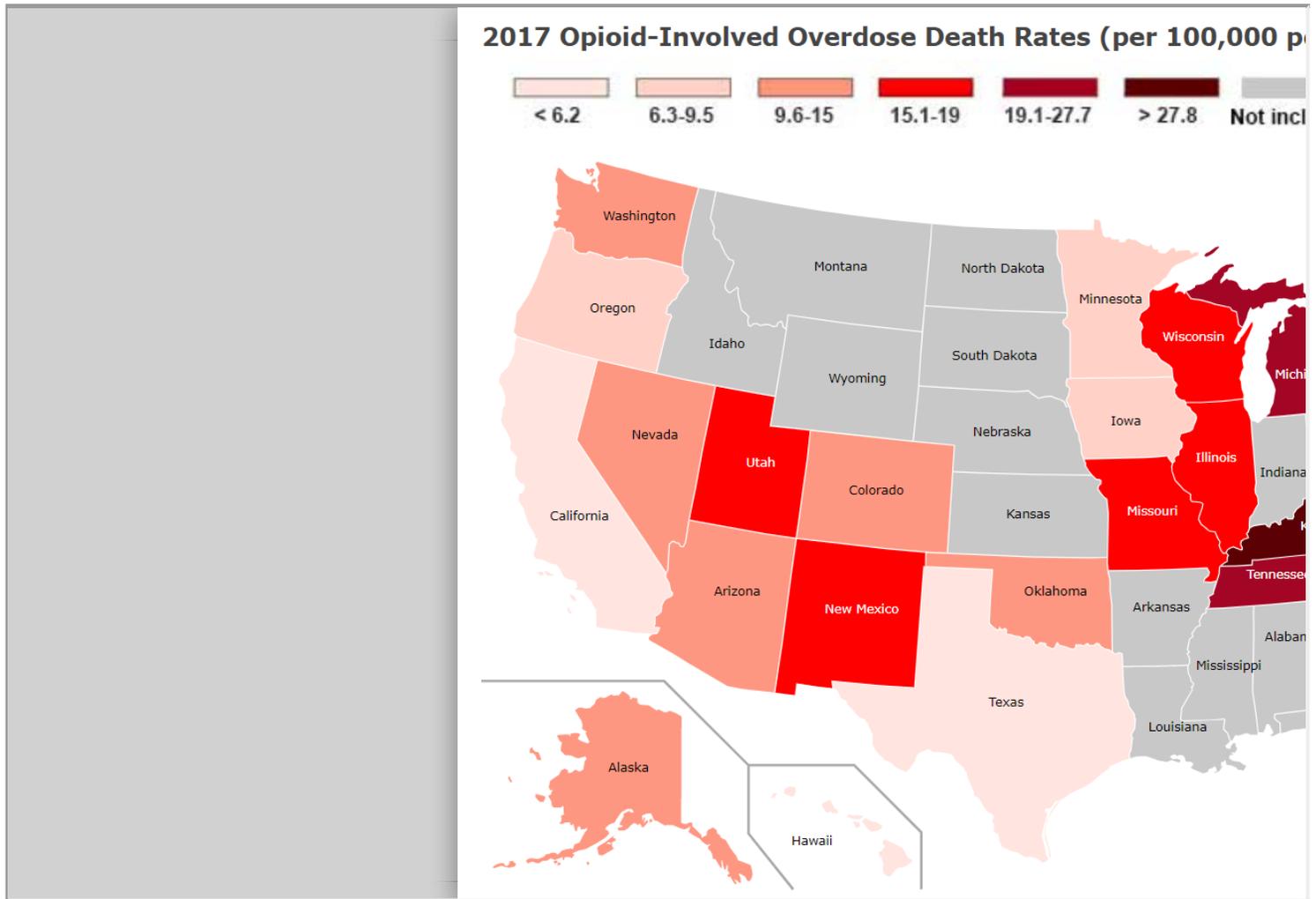
Ten men sectioned to the Plymouth facility, housed deep within Myles Standish State Forest, are suing several state agencies over what they allege was widespread mistreatment, "appalling conditions" and inadequate treatment. The lawsuit blasts the state Department of Public Health for allegedly failing to provide enough inpatient facilities for committed men in Massachusetts.

The lawsuit claims that men travel to Plymouth shackled and handcuffed in a prison van, and are strip searched, monitored mainly by corrections officers and given prisoner-like jumpsuits, despite entering treatment involuntarily and not being convicted of a crime.

"Massachusetts is the only state that sends people with opioid problems to a correctional facility," Balser said. "Addiction is not a crime, it is an illness. Health care is the proper treatment."

Ann Grant, a staff attorney with the Committee for Public Counsel Services, said people charged with crimes are in some ways afforded better due process rights than someone facing a section. She said judges can be deferential to family members seeking a section, in part because they're typically not lawyers, and do not always follow criteria for determining whether someone should be sectioned.

"So my hope is that ... we keep moving towards a process that is clinically appropriate and also appropriately protects the fundamental rights of the people who are facing commitment," Grant said.



‘The last resort’

Judge Mark Coven, first justice of Quincy District Court, said the state needs more treatment options for people struggling with addiction, but he defends the court’s role in treatment. Last fiscal year, Quincy District Court received the second-most Section 35 petitions of any District Court in the state.

“We’re really the last stop, the last resort for people. You don’t understand the desperation the family members have. They’re terrified,” Coven said. “They might’ve found their kid on the floor with a needle stuck in his arm already and they just don’t know where else to turn. They’ve tried everything else.”

Retired Police Chief Mark K. Leahy, executive director of the Massachusetts Chiefs of Police Association, is also among those who believe that however flawed sectioning may be, it saves lives.

“Don’t let the good be the enemy of great,” Leahy said.

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