

The purpose of this pamphlet is to provide general information on the use of a writ of habeas corpus to challenge an order for involuntary commitment and confinement at the Human Services Center. No other purpose is intended or implied.

When you are involuntarily committed, you have several ways to obtain discharge from commitment:

1. Your treating physician may discharge you on any day;
2. The County Board of Mental Illness may discharge you at any mental illness hearing;
3. You may be discharged through a court order following an appeal or writ of habeas corpus hearing.

Disability *Rights* South Dakota

Persons who are interested in obtaining further information may contact an attorney or
Disability Rights South Dakota.

Contact us:
1-800-658-4782
-or-
605-224-8294

Visit us online:
www.drSDLaw.org

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Disability *Rights* South Dakota

WRIT OF HABEAS CORPUS

General Information

A publication of the Protection & Advocacy for Individuals with Mental Illness (PAIMI) Program

**Disability Rights South Dakota
(DRSD)**

1-800-658-4782

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SOME IMPORTANT THINGS TO REMEMBER AND/OR DO:

- Before consulting with an attorney about filing a writ of habeas corpus, ask your treating physician to discharge you. If the treating physician denies your request, find out what criteria needs to be met to become discharged and how your physician feels you can meet that criteria. This needs to be addressed in your treatment plan.
- If your discharge is to happen in the near future, try to get a date or at least a timeframe for this to happen, e.g., next week or next Thursday.
- Know your treatment plan and your discharge plan.
- Ask your attorney any questions you may have.
- Keep your attorney informed of any changes in your condition, treatment, discharge plans, or other information that may affect your case.

Any person who is involuntarily committed by a county board of mental illness, who is detained, confined, or restrained of their liberty, is entitled at any time to file a **writ of habeas corpus** to challenge an unfair or unconstitutional confinement.

A petition for a writ of habeas corpus must be filed with the court. If the court finds that you meet criteria for commitment, you will not be discharged and will continue to be involuntarily committed to the facility.

You may contact your attorney to assist you with the writ. You will work with your attorney on your case. You may use information found in this pamphlet as a guide to assist you with any questions you may have, but contact your attorney about any legal advice regarding your case. If you are unable to afford an attorney, you may be eligible to receive the services of a court-appointed attorney.

To apply for a court-appointed attorney, contact the Human Rights Specialist at the Human Services Center (HSC) to answer questions you may have and to assist you to complete an **“Application for Court-Appointed Attorney for Writ of Habeas Corpus.”** Financial information (information about your assets and liabilities) will be needed to complete the application. The completed form will be sent to the court.

The judge will review the application and, if you are eligible, will appoint an attorney to represent you. If the judge finds that you are not eligible for a court-appointed attorney because your assets are too much, your application will be denied. If your application is denied, you may still hire an attorney to assist you in filing the writ of habeas corpus.

If your application is approved, you will be provided with information about the attorney appointed on your behalf.