

PETITIONER'S RESPONSIBILITIES - HAL MARCHMAN ACT

The Hal S. Marchman Act, Florida Statute 397.01 et seq. (1993), has been passed by the Florida Legislature to address issues of substance and alcohol abuse. A portion of that Act provides a procedure for the involuntary commitment for substance and alcohol abuse services.

WHO CAN FILE A MARCHMAN PETITION?

Per Florida Statute 397.6811, the person filing the petition is the spouse, guardian, or relative of the impaired person; or a private practitioner (doctor or therapist) or facility director; or any adult with personal knowledge of the impairment of an adult. If the impaired person is a minor, only the parent, legal guardian, legal custodian or licensed service provider may file a petition.

BEFORE A PETITION IS FILED:

In order to avoid a court hearing, **BEFORE** filing a petition, you should take the following actions:

- 1) Find a facility in Pinellas that provide substance abuse services. (see website below)
- 2) **YOU MUST** contact the facility and **ensure that a bed is or will be available**, and that **payment** for these services has been arranged.
- 3) Once you secure a bed for the patient, take the patient to the facility if he or she is willing to be voluntarily admitted.
- 4) He or she will then be assessed for substance or alcohol abuse. If necessary, he or she will then be admitted to the facility and treated.

TO FIND A FACILITY:

Go to page: <http://www.myflfamilies.com/service-programs/substance-abuse> or scan this QR code:



Once on the webpage, from the Essential Links section (on left) click on 'For SAMH Providers.' From there, under the paragraph entitled "Substance Abuse Providers Currently Licensed by the Department" click on "this listing." This link brings you to the Department of Children and Families list.

IF IT IS NECESSARY TO FILE A PETITION:

(The patient is not willing to voluntarily seek an evaluation or treatment)

There is no fee for filing a Marchman Act Petition. However, if granted, a **\$40.00** service fee for the Sheriff is required. Payment must be a **check or money order** – no cash, no credit cards-- payable to the Pinellas County Sheriff to be forwarded with the paperwork from the clerk.

- ❖ **YOU HAVE** the **burden of proof** in any court hearing.
- ❖ **YOU ARE NOT** entitled to a court appointed attorney.
- ❖ **YOU MUST PROVE** that the patient is substance abuse impaired and is in need of a professional evaluation.

AT THE COURT HEARING TO PROVE THAT THE PATIENT NEEDS A PROFESSIONAL EVALUATION, YOU MUST DO THE FOLLOWING:

- ❖ **Present evidence**, both oral and written;
- ❖ **Present witnesses**, including expert witnesses;
- ❖ **Respond to and gather relevant evidence** prior to the final hearing.

YOUR PETITION MUST CONTAIN THE FOLLOWING:

- ❖ **A full** description of the patient, including height, weight, hair color and other features;
- ❖ **Detailed location** where the patient can be found (the person **must** be in Pinellas County, per FS 397.681);
- ❖ The name, address and phone number of the facility that is available to take the patient and the name of the person you contacted there;
- ❖ The day and time that the bed will be available.

The following information is provided by the Court for informational purposes only and does not constitute legal advice.

PLEASE NOTE:

When filing petitions in the Marchman Act Court, it is important, as the petitioner, to understand what may be expected and to note that matters may not always be handled in the way one may want them to be handled. This is a court, and there are certain laws and procedures that must be followed. The respondent has certain rights, and these rights will be upheld.

1. Please make sure that all information provided is true and correct. All the information and observations in the petition for the assessment and stabilization must be from first-hand knowledge.
2. Please understand that in the petition the petitioner has asked the court to become involved in the respondent's substance abuse issues.
3. Once the assessment has been completed the petitioner has the opportunity to return to the courthouse to file the petition for court ordered treatment. If treatment is ordered, the court will consider all recommendations of the assessor. In some cases, the petitioner may not agree with all the recommendations.
4. If RESIDENTIAL TREATMENT is recommended, please be aware that there may be a very long waiting list for admission into a residential program. **There is nothing the court can do to decrease the wait time.**
5. There are no lock-down residential facilities. If the respondent does not want to stay in treatment, he or she can walk away at any time.
6. THERE IS NO FREE TREATMENT. EACH PROGRAM HAS THEIR OWN STRUCTURED FEES. WE DO NOT HAVE ANY FUNDING ASSISTANCE IN THIS COURT. THE RESPONDENT IS RESPONSIBLE FOR ANY TREATMENT FEES ASSOCIATED WITH THIS COURT.

MARCHMAN ACT PROCEEDINGS

Petition for Involuntary Assessment and Stabilization

- Petition outlining the need for involuntary assessment and stabilization is filed.
- Judge reviews petition and if appropriate a court date is set w/in 10 days (in some cases the Judge may e issue an Order for the Respondent to be transported, stabilized and assessed.
- Attempts are made to serve the Respondent with the petition.
- At the initial hearing, the Respondent will have an attorney appointed to them.
- After hearing from all parties, the Judge or general magistrate determines whether Substance Abuse Evaluation and Stabilization is necessary. (An assessment may be done on an in-patient or out-patient basis as ordered by the Court). If it is determined that an assessment is not necessary, the case may be dismissed. If an assessment is ordered, the Respondent will be given instructions as to what to do.

Petition for Involuntary Substance Abuse Treatment

- Petitioner comes to the Clerk's Office to complete the Petition for Involuntary Treatment and submit the assessment. **The petitioner is required to bring the assessment to the Clerk's Office within 5 days from the date the assessment is done.**
- The Respondent will be served with a copy of all pleadings, a Summons, and a Notice of Hearing.
- At the hearing, the Respondent will have an attorney appointed to them.
- The qualified professional who conducted the assessment MUST testify at the hearing. It is the Petitioner's responsibility to request the professional appear and/or subpoena as a witness. Based on the recommendations outlined in the assessment and after hearing from all parties, the Judge or general magistrate determines whether Substance Abuse treatment is warranted. (Treatment may be ordered on an in-patient or out-patient basis).
- Initial treatment is for 90 days and subsequent renewals are every 90 days.
- **Any treatment ordered must be paid for by the Respondent or the Respondent's family.**

*The Petitioner has the responsibility of attending all court hearings related to the Respondent's Treatment unless excused by the Judge.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

IN RE: _____ CASE NO: _____
RESPONDENT

PETITION AND AFFIDAVIT FOR INVOLUNTARY ASSESSMENT AND STABILIZATION

I, _____, being duly sworn, am filing this sworn statement requesting a
PRINT NAME OF PETITIONER

court order for the involuntary assessment of _____ (hereinafter referred to as
PRINT NAME OF RESPONDENT
Respondent).

Is the Respondent eighteen (18) years of age or older? [] YES [] NO Age of Respondent (if known): _____

The petition and affidavit will be included in the Respondent's clinical record and may be viewed by the Respondent. I understand that by filling out this form, the Respondent may be taken by law enforcement to a hospital or licensed substance abuse facility for assessment and stabilization.

I SWEAR that the answers to the following questions are given honestly, in good faith, and to the best of my knowledge.

1. a. Petitioner lives at (print full residence address): Phone (including area code): _____

Street Address	City	State	Zip
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b. The Respondent lives at, or may be found at:

Street Address	City	State	Zip
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Street Address	City	State	Zip
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Street Address	City	State	Zip
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2. I have the following relationship with the Respondent:

3. I am on good terms with the Respondent at the present time (check one box). [] YES [] NO If "no", please explain:

4. I or a family member [] HAVE [] HAVE NOT previously made allegations to law enforcement involving this Respondent on _____ (date) such as domestic violence, trespassing, battery, child abuse or neglect, Baker Act, neighborhood disputes, etc. If allegations have been made, describe:

5. This Respondent [] HAS [] HAS NOT previously made allegations to law enforcement about me or my family on _____ (date) such as domestic violence, trespassing, battery, child abuse or neglect, Baker Act, neighborhood disputes, etc. If allegations have been made, describe:

6. This Respondent [] HAS [] HAS NOT previously (or currently) been involved in criminal or delinquency charges.

7. Check the box that applies:

[] a. I or a family member am not now, and have not in the past, been involved in a court case with the Respondent.

[] b. I or a family member am now, or was, involved in a court case with the Respondent. This case is/was a:

_____ in _____
(Type of Case) (When)

Explain: _____

8. I have known the Respondent for _____ (how long)

[] a. The Respondent has only recently displayed behavior related to substance abuse.

[] b. The Respondent has, over a period of time, had a substance abuse problem. Specify how long:

CHECK AND COMPLETE THE FOLLOWING ONLY IF THE SECTION APPLIES TO THIS CASE:

9. [] I believe that the Respondent is substance abuse impaired (defined in s.397.311(19), F.S., as a condition involving the use of alcoholic beverages or any psychoactive or mood altering substance in such a manner as to induce mental, emotional, or physical problems and cause socially dysfunctional behavior) or has a co-occurring mental health disorder. If checked, explain why (i.e., observation, related knowledge, etc.) AND

10. [] I believe that because of such impairment or disorder, the Respondent has lost the power of self control with respect to substance abuse. If checked, explain why (i.e., observation, related knowledge, etc.). AND

11. [] I believe the Respondent is in need of substance abuse services by reason of substance abuse impairment and he or she is incapable of appreciating his or her need for services and making a rational decision in that regard (a mere refusal to receive services is not enough to constitute lack of judgment). If checked, explain why (i.e., observation, related knowledge, etc.).

12. [] I believe that without care or treatment, he or she is likely to suffer from neglect or refuse to care for himself or herself and that such neglect or refusal poses a real and present threat of substantial harm to his or her wellbeing. If checked, explain why (i.e., observation, related knowledge, etc.).

13. [] I do not believe that such harm may be avoided through the help of willing family members or friends or the provision of other services. If checked, explain why (i.e., observation, related knowledge, etc.).

14. [] I believe there is substantial likelihood that the Respondent has inflicted, or threatened to or attempted to inflict, or, unless admitted, is likely to inflict, physical harm on himself, herself, or another. If checked, explain why (i.e., observation, related knowledge, etc.).

15. [] a. I have attempted to get the Respondent to seek assistance for a substance abuse problem(s) as follows:

[] b. I did not try to get the Respondent to agree to voluntary assessment or treatment because:

[] c. The Respondent refused a voluntary assessment or treatment because:

PLEASE PROVIDE THE FOLLOWING IDENTIFYING INFORMATION ABOUT THE RESPONDENT:

County of Residence: _____ Date of Birth: _____ Age: _____

Race: _____ Sex: _____ SS#: _____

Attach a picture of the Respondent if possible. Picture attached: YES NO

Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____

1. Does Respondent have access to any weapons: YES NO UNKNOWN
If yes, please describe:

2. Is the Respondent violent now? YES NO UNKNOWN
If yes, please describe: _____

3. Has the Respondent been violent toward anyone, including law enforcement, in the recent past?
 YES NO UNKNOWN
If yes, please describe: _____

WHERE IS THE SUBJECT EMPLOYED? (If applicable)

(Name of Company) (Address, if known)

IF THE SUBJECT IS OVER 18, HAS THE SUBJECT EVER BEEN DECLARED INCOMPETENT?

YES NO If yes, Guardian's

Name _____

(Guardian's Full Mailing Address and Phone Number)

DOES THE SUBJECT HAVE ANY CRIMINAL CHARGES PENDING?

NO YES IF YES – ARE THEY MISDEMEANOR FELONY NOT SURE

IS THE SUBJECT CURRENTLY INCARCERATED..... YES NO

IS THE SUBJECT CURRENTLY ON PROBATION? YES NO

IS THERE ANY PENDING DOMESTIC VIOLENCE CASE? YES NO

IS THERE ANY PENDING BAKER ACT CASE? YES NO

IS THERE ANY PENDING DEPENDENCY CASE? YES NO

IS THIS PERSON A VETERAN..... YES NO

DOES THE SUBJECT REQUIRE AN INTERPRETER? IF SO, WHAT LANGUAGE?

IF YOU HAVE ANSWERED "YES" TO ANY OF THE ABOVE, PLEASE EXPLAIN BELOW

I have contacted _____ at _____,
(Person with whom you spoke) (Name of Facility)

who stated that the above named receiving facility is willing to evaluate the alleged substance abuser described above.

The facility will have space available for this person on _____ at _____ AM PM.

Check here if the court may contact *you* by email. Email: _____

Do not sign until you are in the presence of a notary or Deputy Clerk

I understand that this sworn statement is given under oath and will be treated as though it was made before a judge in a court of law. I understand that any information in this sworn statement which is not to the best of my knowledge and not done in good faith may expose me to a penalty for perjury and other possible penalties under the statutes of the State of Florida. Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Signature of Petitioner: _____

SWORN TO AND SUBSCRIBED before me OR
this _____ day of _____,
by _____

SWORN TO AND SUBSCRIBED before me
this _____ day of _____,

who is personally known to me or presented
_____ as identification

NOTARY PUBLIC - STATE OF FLORIDA
My Commission expires: Date _____

KEN BURKE, CLERK OF THE CIRCUIT COURT,
By: _____
Deputy Clerk

A copy of this petition must be attached to an Order for Involuntary Substance Abuse Assessment and Stabilization and accompany the PERSON to a licensed hospital or substance abuse facility that has agreed to accept the PERSON.

Availability confirmed: _____ with: _____ by: _____

Authority: s. 397.321(20). Florida Statutes
March 2018

MARCHMAN ACT