

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 issue an Order for the Respondent to be transported, stabilized and assessed without a court hearing).
- 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 the professional 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, SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA
PROBATE DIVISION**

IN RE: _____

REF #: _____ **UCN:** _____

PETITION FOR INVOLUNTARY SERVICES
By authority of Chapter 397, Florida Statutes

I, _____ being duly sworn, am filing this sworn statement requesting a court order for the involuntary services of _____ (hereinafter referred to as Respondent).
PRINT NAME OF RESPONDENT

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

Relationship of Petitioner to Respondent:

- Spouse Parent (Minors)
- Guardian Relative _____
- Legal Guardian of Minor Director of Licensed Service Provider
- An adult who has direct personal knowledge of the Respondent's substance abuse impairment and his/her prior course of assessment and treatment.

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 Phone (including area code): _____
- b. Petitioner email address : _____
- c. Petitioner lives at (print full residence address):

Street Address	City	State	Zip
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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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I, _____ hereby state that I have personally observed the behavior of
Print Name of Petitioner

_____, and have a good faith reason to believe that said respondent is
Print Name of Respondent

substance abuse impaired as defined under Florida Statutes Section 397, and allege:

2. Petitioner alleges that the Respondent meets the criteria for involuntary admission as provided in Florida Statutes Section 397.6951 in that:

(a) Respondent is substance abuse impaired, as evidenced by: _____

_____ **AND**

(b) Because of such impairment the Respondent has lost the power of self-control with respect to substance abuse, as evidenced by: _____

_____ **AND**

(c) Respondent has inflicted or is likely to inflict physical harm on himself or others unless the court orders the involuntary services, as evidenced by: _____

OR,

The Respondent's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the Respondent is incapable of appreciating his/her need for care and making a rational decision regarding his/her need for care as evidenced by: _____

3. Petitioner further alleges: (Petitioner must allege **at least one** of the following:)

- Respondent has been assessed by a qualified professional within 5 days;
- Respondent has been subject to involuntary assessment and stabilization pursuant to F.S.397.6818 within the previous 12 days;
- Respondent has been placed under protective custody pursuant to F.S. 397.677 within the previous 10 days;
- Respondent has been subject to an emergency admission pursuant to F.S. 397.679 within the previous 10 days; or
- Respondent has been subject to alternative involuntary admission pursuant to F.S. 397.6822 within the previous 12 days.

4. The Respondent is:

- Represented by an attorney:
Name: _____ Phone Number: _____
Address: _____
- Not represented by an attorney.
- Unknown whether the Person is represented by an attorney.

5. Respondent:

- Has assets sufficient to pay attorney fees.
- Does not have assets sufficient to pay attorney fees.
- Unknown whether the Respondent has assets sufficient to pay attorney fees.

6. An assessment was performed on the Person by a qualified professional, at:

Facility or Professional's Name and Address and Phone Number _____

The assessment was performed on (date) _____.

The findings and recommendations of the assessment performed by the qualified professional are:

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 hereby petition this Court to enter an Order for Involuntary Services of the Respondent.

Under penalties of perjury I declare that I have read the foregoing and the facts alleged are true and correct to the best of my knowledge and belief.

SIGNATURE OF AFFIANT/PETITIONER: _____ Date: _____

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20____,

KEN BURKE, CLERK OF THE CIRCUIT COURT,
PINELLAS COUNTY, FLORIDA

By: _____
Deputy Clerk

OR

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20____,
by _____, who is personally known to me **OR** presented _____ as
identification.

Notary Public – State of Florida

My commission expires: _____
Date

NOTE: All information pertaining to the person is confidential and is protected from disclosure under the authority found in s. 397. 501 (7), Florida Statutes, and 42 Code of Federal Regulations, Part 2.