Baker Act & Marchman Act

COMPARISON

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FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES
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Baker Act & Marchman Act Comparison
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Introduction and History

Baker Act	Marchman Act
The Baker Act was enacted by the 1971 Florida Legislature and took effect in 1972. It was named after its legislative sponsor, Representative Maxine Baker from Miami. The legislative Intent was to provide for the least restrictive form of intervention and to provide a Bill of Rights for persons of all ages who had mental illnesses. It has been frequently amended over the years, but continues to balance liberty interests against safety of individual and society.	Hal S. Marchman Alcohol & Other Drug Services Act of 1993 -- addresses the entire array of substance abuse impairment issues. It replaced the Myers Act (396, FS) – alcohol abuse only and the Florida Drug Dependency Act (397, FS) which addressed other drugs. The Marchman Act is not just the substance abuse version of the Baker Act.

Definitions

Baker Act (394.455, FS and 65E-5.100, FAC)	Marchman Act (397.311, FS)
Mental Illness means: Impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality. Impairment substantially interferes with a person's ability to meet the ordinary demands of living regardless of etiology; excluding retardation or developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.	**Substance Abuse Impairment means:** A condition involving the use of alcohol or any psychoactive or mood-altering substance in such a manner as to induce: • mental, or • emotional, or • physical problems, and • Cause socially dysfunctional behavior

Express & Informed Consent

Consent voluntarily given in writing by a competent person after sufficient explanation and disclosure of the subject matter involved to enable the person to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.	Informed Consent required for voluntary admission, but not defined in Marchman Act.

Incompetent to Consent

That a person's judgment is so affected by his or her mental illness That the person lacks the capacity To make a well-reasoned, willful and knowing decision concerning his or her medical or mental health treatment.	Not defined in Marchman Act

Qualified Professionals

394.455(2), (4), (21), (23) and (24), FS	
Psychiatrist: A medical practitioner licensed under chapter 458 or 459 who has primarily diagnosed/treated mental/nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. **Physician:** A medical practitioner licensed under chapter 458 or 459 who has experience in the diagnosis/treatment of mental and nervous disorders or a physician employed by a facility operated by the U.S. Dept of Veterans Affairs which qualifies as a receiving or treatment facility. **Clinical Psychologist:** A psychologist as defined in s. 490.003(7) with 3 years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility. **Psychiatric Nurse:** A registered nurse licensed under chapter 464 who has a master's degree or a doctorate in psychiatric nursing and 2 years of post master's clinical experience under the supervision of a physician. **Clinical Social Worker:** A person licensed as a clinical social worker under chapter 491. **Mental Health Counselor:** Means a mental health counselor licensed under chapter 491, F.S. **Marriage and Family Therapist:** Means a marriage and family therapist licensed under chapter 491, F.S. **Physician Assistants** not eligible in statute, but recognized by Florida Attorney General in May 2008 Opinion to initiate involuntary exam (but not to perform other duties of a physician)	A physician licensed under Chapter 458 or 459, F.S., A practitioner licensed under Chapter 490 or 491, F.S., or A person who is certified through a department-recognized certification process. Individuals who are certified are permitted to serve in the capacity of a qualified professional, but only within the scope of their certification. Reciprocity with other states – meet Florida requirements within 1 year. Grandfather Clause – certified in Florida prior to 1/1/95.

Service Providers

Baker Act (394.455(26) and (30), FS)

- Unless designated by DCF, facilities are not permitted to hold or treat persons against their will or without their express and informed consent (involuntary status) for mental illness, except as required under federal EMTALA law.
- Receiving Facility: Any public or private facility designated by DCF to receive and hold persons on involuntary status under emergency conditions for psychiatric evaluation and to provide short-term treatment (excludes jails).
- Treatment Facility: State Mental Health Facilities (state hospitals)
- Service provider means any public or private receiving facility, an entity under contract with the Department of Children and Family Services to provide mental health services, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician, a psychiatric nurse as defined in subsection (23), or a community mental health center or clinic as defined in this part.

Marchman Act (397.405, FS)

- Public agencies,
- Private for-profit or not-for-profit agencies,
- Specified private practitioners,
- Hospitals that are DCF licensed or exempt from licensure under the Marchman Act.
- Exempt from licensure: hospitals, nursing homes, federal facilities, physicians (458/459), psychologists, chapter 491 professionals, DD facilities, churches under certain circumstances, and substance abuse education programs (s.1003.42) – generally limited to voluntary services only.
- "Detoxification" is a service involving subacute care that is provided on an inpatient or an outpatient basis to assist individuals to withdraw from the physiological and psychological effects of substance abuse and who meet the placement criteria for this component.
- "Addictions receiving facility" is a secure, acute care facility that provides, at a minimum, detoxification and stabilization services; is operated 24 hours per day, 7 days per week; and is designated by the department to serve individuals found to be substance use impaired as described in s. 397.675 who meet the placement criteria for this component.

Voluntary Admissions

Baker Act (394.4625, FS and 65E-5.270, FAC)

Adults: 394.4625, FS and 65E-5.270, FAC

- Have a mental illness
- Be suitable for treatment
- Be competent to provide express and informed consent

Minors:

- Have a mental illness (same definition as for adults)
- Be suitable for treatment
- Guardian applies by express and informed consent for minor's admission
- Minor agrees (assents) to the admission
- Judicial hearing to confirm the voluntariness of the admission
- Special provisions for dependent children in custody of DCF

Marchman Act (397.601, FS)

- Any person, regardless of age, who wishes to enter substance abuse treatment may apply to a service provider for voluntary admission if meeting diagnostic criteria for substance abuse related disorders.
- Disability of minority (under 18) removed solely for purpose of voluntary admission, but not for involuntary when parental participation may be required by the court.
- Setting must be least restrictive setting appropriate to person's treatment needs.

Requirements for Voluntary Status:

- Must be on involuntary status if a guardian has been appointed by a court or if a person has a healthcare surrogate proxy because a physician has found the person to be incompetent to make his or her own health care decisions.
- A Certification of Competence must be completed by a physician within 24 hours of arrival or adult must be released or converted to involuntary.

Upon giving written informed consent, a person on involuntary status may be referred to a service provider for voluntary admission when the provider determines person no longer meets involuntary criteria.

Release from Voluntary Status:

394.4625(2), FS and 65E-5.270, FAC

- Notice of right to request release given at time of admission
- Request for discharge -- notice within 12 hours to physician or psychologist & release within 24 hours (3 working days from State Treatment Facility)
- Refusal or revocation of consent to treatment – discharge within 24 hours
- Petition for involuntary placement filed with the circuit court within 2 court working days after request for discharge or refusal of treatment is made

Involuntary Examination/ Admission Criteria

Baker Act (394.463(1),FS)

The Baker Act provides for an involuntary examination that may be initiated by two non-court procedures or one court procedure. The following criteria is the same regardless of which of the three methods of initiation is used:

1. Reason to believe person has a mental illness and because of mental illness, person has refused or is unable to determine if examination is necessary, and either:
2. Without care or treatment, is likely to suffer from neglect or refuse to care for self, and such neglect or refusal poses a real and present threat of substantial harm to one's well-being and it is not apparent that such harm may be avoided through the help of willing family members, friends, or the provision of other services; or
3. There is substantial likelihood that without treatment person will cause in the near future serious bodily harm to self or others, as evidenced by recent behavior.

Must meet all criteria

Initiation of Involuntary Examination: Upon determination that person ***appears to meet*** criteria for involuntary examination, the exam may be initiated by any one of the following three means:

- Court Order - the circuit court ***may*** enter an ex parte order; or
- A law enforcement officer ***shall*** take into custody a person who appears to meet the criteria describing ***circumstances***; or
- A mental health professional ***may*** execute a certificate stating that s/he has examined the person within the preceding 48 hours and found the person met the criteria and stating his/her ***observations*** upon which that conclusion is based.

More detail on each of the above methods of initiation is found below.

Marchman Act (397.675, FS)

The Marchman Act provides three distinct non-court procedures (protective custody, emergency admission, alternative assessment and stabilization of minors) and one court procedure (involuntary assessment and stabilization) for conducting assessments, which may include detoxification, stabilization, and short-term treatment. The criteria is:

There is good faith reason to believe the person is substance abuse impaired and, because of such impairment:

1. Has lost the power of self-control with respect to substance use; and either

2a. Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or herself or another; or

2b. Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that the person is incapable of appreciating his or her need for such services and of making a rational decision in regard thereto; however, mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services.

Eligibility for initiation of involuntary admission proceedings under the Marchman Act is different depending on the age of the individual and the circumstances:

- The court may order an involuntary assessment / stabilization,
- A law enforcement officer can initiate Protective Custody,
- A parent/guardian can initiate assessment of a minor to a JARF, or
- a variety of individuals can initiate an Emergency Admission if a physician's certificate has been obtained.

Procedure for Involuntary Examination/Assessments

Assessment & Examination Options

The Baker Act provides that involuntary examinations be conducted only at designated hospital and non-hospital receiving facilities, as well as at hospitals that have provided examination and treatment of emergency medical conditions.

The Marchman Act provides several placement options for assessing persons (e.g., hospitals, addictions receiving facilities, detoxification facilities, less restrictive environments, jail).

Reporting Requirements

394.459(9), 394.463(2)b, and 400.102(1)(c), FS

The Baker Act requires that the ex parte order, law enforcement officer's report, or executed certificate be forwarded to the Agency for Healthcare Administration (AHCA) on the next working day following admission of a person to a receiving facility.

Any receiving facility accepting person for involuntary examination must send to BA Reporting Center cover sheet (#3118) and copy of completed initiation form:

- Ex Parte Petition/Order
- Report of Law Enforcement Officer
- Certificate of a Professional

All court orders for Involuntary Placement must also be sent to the BA Reporting Center within 1 day:

- Involuntary Inpatient Placement Order
- Involuntary Outpatient Placement Order

Receiving facilities must report to AHCA, by certified mail within one working day, facilities licensed under chapter 400 / 429, FS that do not fully comply with Baker Act provisions governing:

- Voluntary admission
- Involuntary examination
- Transportation

The Marchman Act does not require contact with AHCA regarding involuntary admissions.

MH/SA Professional Initiation (394.463(2)(a)3, FS and 65E-5.280(3), FAC)

The Baker Act permits a physician, clinical psychologist, psychiatric nurse, clinical social worker, mental health counselor, or marriage and family therapist to execute a certificate if a person has been examined within the preceding 48 hours. The Florida Attorney General issued an opinion in 2008 that a Physician Assistant was also eligible to initiate and involuntary examination, but didn't authorize the PA to perform any other activities permitted for a physician.

The authorized professional must cite his/her own observations on which his/her conclusion is based on a Certificate of a MH Professional (3052b) form and can't rely only upon the observations or input of others. The individual must be transported to the nearest receiving facility unless the County Commission and DCF have approved a Transportation Exception Plan (can transfer later if appropriate).

Emergency Admissions (397.679, FS)

An application for emergency admission may be initiated:

For a minor by the parent, guardian or legal custodian or for adults by:

- Certifying physician
- Spouse or guardian
- Any relative
- Any other responsible adult who has personal knowledge of the person's substance abuse impairment.

An application for Emergency Admission must be accompanied by a Physician's Certificate. The Physician's Certificate must include:

- Name of client
- Relationship between client and physician
- Relationship between physician and provider
- Statement that exam & assessment occurred within 5 days of application date, and
- Factual allegations about the need for emergency admission:
- Reasons for physician's belief the person meets each criteria for involuntary admission
- Recommend the least restrictive type of service
- Be signed by the physician
- State if transport assistance is required and specify the type needed.
- Accompany the person and be in chart with signed copy of application.

A person meeting involuntary admission criteria may be admitted for emergency assessment and stabilization upon receipt of a completed application with an attached completed physician's certificate to:

- A hospital, or
- A licensed detox, or
- An ARF, or
- A less intensive component of a licensed service provider for assessment only

Release from Emergency Admission:

Within 72 hours after emergency residential admission, client must be assessed by attending doctor to determine need for further services (5 days in OP). Based on assessment, a qualified professional* must:

- Release the client / refer
- Retain the client voluntarily
- Retain the client and file a petition for involuntary assessment or treatment (authorizes retention pending court order).

Law Enforcement 384.463(2)(a)2, FS and 65E-5.280(2), FAC

- Law enforcement officer is defined to mean a law enforcement officer as defined in s. 943.10, FS. The Florida Attorney General has issued several opinions excluding various federal law enforcement agencies from this definition because they are not certified by the State of Florida.
- A Law Enforcement Officer is required to describe the circumstances under which he/she has taken the individual into custody under the involuntary examination provisions of the Baker Act. The officer is not required to personally observe the behavior leading to the Baker Act, as is a Mental Health Profession who initiates the examination.
- The mandatory Report of Law Enforcement Officer -- Form (3052a) – must be completed by the officer and accompany the individual to a receiving facility or hospital.
- Transportation by the law enforcement officer must be to the nearest receiving facility unless the individual has an emergency medical condition. He/she can be transferred later by the facility if appropriate

Protective Custody (397.677, FS)

A law enforcement officer means a law enforcement officer as defined in 943.10(1), FS

Law enforcement may implement for adults or minors when involuntary admission criteria appears to be met who is in a public place or is brought to attention of LEO.

A person may ***consent*** to LEO assistance to:

- home, or
- hospital, or
- licensed detox center, or
- addictions receiving facility,

whichever the LEO determines is most appropriate.

Law enforcement officer may take person (after considering wishes of person) ***without consent*** to:

- Hospital, or Detox, or ARF, or
- An ***adult*** may be taken to jail. Not an arrest and no record made. Jail must notify nearest appropriate licensed provider within 8 hours and shall arrange transport to provider with an available bed. The person must be assessed by jail's attending physician without unnecessary delay but within 72-hours

	Release from Protective Custody must be by a qualified professional* when: • Client no longer meets the involuntary admission criteria, or • The 72-hour period has elapsed; or • Client has consented to remain voluntarily, or • Petition for involuntary assessment or treatment has been initiated. Timely filing of petition authorizes retention of client pending further order of the court.
No corresponding provision in the Baker Act	**Alternative Assessment for Minors** Admission to a Juvenile Addiction Receiving Facility (JARF) for a minor meeting involuntary criteria upon application from: • Parent, • Guardian, or Legal custodian Application must establish need for immediate admission and contain specific information, including reasons why applicant believes criteria is met. • Assessment by qualified professional within 72 hours to determine need for further services. • Physician can extend to total of 5 days if further services are needed. • Minor must be timely released or referred for further voluntary or involuntary treatment, whichever is most appropriate to minor's needs.
Circuit Court Order 394.463(2)(a)1, FS and 65E-5.280(1), FAC • Ex Parte means one-sided communication with the court and is generally used in emergency situations. The judge doesn't hear testimony about the circumstances of the petition, but only considers the information on the petition. • The Baker Act requires that an Ex Parte order be based on sworn testimony. This can be as few as one petitioner or as many as needed to inform the circuit court judge that the criteria for involuntary examination appears to be met. • Recommended petition form (#3002) may be used by the courts. • The petition must be filed with Clerk of the Court (Probate) and no fee can be charged • The Ex Parte Order is valid for seven days unless the court has specified a longer or shorter time limit for execution of order • Law enforcement can execute the Ex Parte Order any hour of the day, on any day of the week and is authorized to use whatever reasonable force is needed to enter the premises to take the person into custody. • Transportation must be to the nearest receiving facility (unless a transportation exception plan has been approved by the Board of County Commissioners and the DCF Secretary) the facility will transfer the individual later to a different facility if appropriate.	**Ex parte Order (397. 681, FS)** The Marchman Act permits entering an ex parte order based solely on the contents of a petition for involuntary assessment and stabilization. **Petitions (397.6811, FS)** • Petitions filed with Clerk of Court in county where person is located. • Circuit court has jurisdiction • Chief judge may appoint general or special master. • Person has right to counsel at every stage of a petition for involuntary assessment or treatment. • Court will appoint counsel if requested or if needed and person cannot afford to pay. • Un-represented minor must have court-appointed guardian ad litem to act on the minor's behalf. **Adult:** Petition may be filed by: • Spouse, • Guardian, • Any relative, • Private practitioner, • Any three adults having personal knowledge of person's condition, or • Service provider director/designee. **Minor:** Petition may be filed by: • Parent • Legal guardian • Legal custodian, or • Licensed service provider. Providers may initiate petitions for involuntary assessment and stabilization, or involuntary treatment when that provider has direct knowledge of the respondent's substance abuse impairment or when an extension of the involuntary admission period is needed.
	Petition for Assessment & Stabilization (397.6814, FS) must contain: • Name of applicants and respondent • Relationship between them • Name of attorney, if known • Ability to afford an attorney • Facts to support the need for involuntary admission, including why petitioner believes person meets each criteria for involuntary intervention.

	Role of the Court: • Clerk must determine whether person is represented by an attorney, and if not, whether an attorney should be appointed. • Based on a hearing or solely on petition and without an attorney, enter an ex parte order authorizing assessment & stabilization. • If hearing is scheduled, a summons issued to respondent and hearing scheduled within 10 days

	Court Determination (397.6818, FS)
	• Court shall hear all relevant testimony at hearing.
	• Respondent must be present unless injurious and a guardian advocate is appointed.
	• Right to examination by court-appointed qualified professional.
	• Determination by court whether a reasonable basis to believe person meets involuntary admission criteria.
	• Court may either enter an order authorizing assessment & stabilization or dismiss petition.
	• Court may initiate Baker Act if condition is due to mental illness other than or in addition to substance abuse
	• Respondent or court may choose provider
	• Order must include findings as to availability & appropriateness of least restrictive alternatives & need for attorney to represent respondent.
	• If court determines that person meets criteria, he/she may be admitted:
	  • Up to 5 days to hospital, detox or ARF for assessment & stabilization, or
	  • Less restrictive licensed setting for assessment only

	Provider Response for Court Ordered Evaluation (397.6819, FS) • Licensed provider may admit person for assessment without unnecessary delay, for a period of up to 5 days. • Assessment must be conducted by a "qualified professional". • Assessment must be reviewed by a physician prior to end of assessment period. • Provider may request court to extend time for assessment & stabilization for 7 more days, if timely filed within the 5-day assessment period.. Based upon involuntary assessment (397.822, FS), person may be: • Released • Remain voluntarily • Retained if a petition for involuntary treatment has been initiated. Timely petition authorizes retention of client pending further order of the court.

Transportation Requirements for Involuntary Examination / Admission

Baker Act 394.462, FS and 65E-5.260, FAC

Law enforcement is mandated to provide the transportation of persons under involuntary status to the nearest receiving facility regardless of how the examination was initiated (court, law enforcement or MH professional), except transfers from a hospital that is governed by the federal EMTALA law.

The designated law enforcement agency may decline to transport the person to a receiving facility only if one of the following exceptions applies:

1. The jurisdiction designated by the county has contracted on an annual basis with an emergency medical transport service or private transport company for transportation of persons to receiving facilities at the sole cost of the county; and the law enforcement agency and the emergency medical transport service or private transport company agree that the continued presence of law enforcement personnel is not necessary for the safety of the person or others.
2. When a jurisdiction has entered into a contract with an emergency medical transport service or a private transport company for transportation of persons to receiving facilities, such service or company shall be given preference for transportation of persons from nursing homes, assisted living facilities, adult day care centers, or adult family-care homes, unless the behavior of the person being transported is such that transportation by a law enforcement officer is necessary.
3. When a law enforcement officer takes custody of a person pursuant to this part, the officer may request assistance from emergency medical personnel if such assistance is needed for the safety of the officer or the person in custody.
4. If the law enforcement officer believes that a person has an emergency medical condition as defined in s. 395.002, the person may be first transported to a hospital for emergency medical treatment, regardless of whether the hospital is a designated receiving facility.
5. When a member of a mental health overlay program or a mobile crisis response service it may call on the law enforcement agency or other transportation arrangement best suited to the needs of the patient.
6. When a Transportation Exception Plan has been approved by the Board of County Commissioners and the Secretary of DCF.

Criminal Charges:

When any law enforcement officer has custody of a person based on either noncriminal or minor criminal behavior that meets the statutory guidelines for involuntary examination, the law enforcement officer shall transport the person to the nearest receiving facility for examination.

Marchman Act

Transportation for ***Emergency Admission*** may be provided by:

- An applicant for a person's emergency admission, or
- Spouse or guardian, or
- Law enforcement officer, or
- Health officer

The Court may order law enforcement to transport a person to nearest appropriate licensed service provider for a ***court-ordered assessment and stabilization.***

Baker Act 394.462, FS and 65E-5.260, FAC

When any law enforcement officer has arrested a person for a felony and it appears that the person meets the statutory guidelines for involuntary examination or placement under this part, such person shall first be processed in the same manner as any other criminal suspect. The law enforcement agency shall thereafter immediately notify the nearest public receiving facility, which shall be responsible for promptly arranging for the examination and treatment of the person. A receiving facility is not required to admit a person charged with a crime for whom the facility determines and documents that it is unable to provide adequate security, but shall provide mental health examination and treatment to the person where he or she is held.

Each law enforcement agency shall develop a memorandum of understanding with each receiving facility within the law enforcement agency's jurisdiction which reflects a single set of protocols for the safe and secure transportation of the person and transfer of custody of the person. These protocols must also address crisis intervention measures.

The nearest receiving facility must accept persons brought by law enforcement officers for involuntary examination.

Procedures, facilities, vehicles, and restraining devices used for criminals may not be used with persons who have a mental illness, except for protection of the person or others. (Right to Individual Dignity)

Law enforcement has no responsibility to provide transportation of individuals on voluntary status or to "treatment" facilities.

Paperwork Required:

Form Initiating Involuntary Exam:

- BA 52a (Law Enforcement) or
- BA 52b (MH Professional) or
- Ex Parte Order (Circuit Judge), and
- BA 3100 (transportation form)

Admission Notices

Baker Act 394.4599, FS

Voluntary Admission – No notice for adults except in emergencies

Involuntary Admission -- Prompt notice (within 24 hours) of arrival by phone or in person to:

- Guardian/Guardian Advocate or Representative
- May waive notice of admission to designated representative only if person requests no notification. No other required notices to representatives may be waived.

Case Manager must be notified (65E-5.130(1) and (2), FAC)

- Identity of case manager noted in chart
- Contact, with consent, of Case Management agency within 12 hours
- CM visit within 2 working days after notice to assist with discharge & aftercare planning
- If case manager out of district, telephone call may substitute

Other required notices (394.4599, FS) require prompt delivery to:

- Individual
- Representative
- Guardian or Gardian Advocate
- Attorney

Notice to individuals held in facilities must be provided:

- Orally and in writing
- Using language/terminology person can understand
- Using an interpreter if needed

To others, notices provided by U.S. mail and by registered or certified mail, with receipts in chart or by hand delivery documented in chart.

Marchman Act

Nearest relative of a minor must be notified by the law enforcement officer of protective custody, as must the nearest relative of an adult, unless the adult requests that there be no notification.

Upon receipt of petition for a court-ordered assessment and stabilization and if a hearing is scheduled, a copy of petition & notice of hearing (394.6815, FS) must be provided to:

- Respondent,
- Attorney,
- Petitioner,
- Spouse or guardian,
- Parent of a minor, and
- Others as directed by the court

Examination or Assessment

Baker Act (394.463(2)(f)and 65E-5.2801(1), FAC)

The Baker Act provides that a person must be examined within 72 hours of admission by a physician or a clinical psychologist. The person may not be released by the receiving facility without the documented approval of a psychiatrist, a clinical psychologist, or if the receiving facility is a hospital, the release may also be approved by an emergency department physician.

A "Baker Act" is not lifted, rescinded, overturned, reversed, or abrogated! Once an Involuntary Exam is initiated, the Initial Mandatory Involuntary Examination must be conducted without unnecessary delay by a physician or licensed clinical psychologist at a receiving facility or a hospital and documented in the clinical record.

Minimum standards for Initial Mandatory Involuntary Examination as required in law and rule (394.463(2)(f), FS and65E-5.2801, FAC) must include:

- Thorough review of any observations of the person's recent behavior;
- Review "Transportation to Receiving Facility" form (#3100) and
- Review one of the following:
  - "Ex Parte Order for Involuntary Examination" or
  - "Report of Law Enforcement Officer Initiating involuntary Examination" or
  - "Certificate of Professional Initiating Involuntary Examination"
- Conduct brief psychiatric history; and
- Conduct face-to-face examination in a timely manner to determine if person meets criteria for release.

Within the 72 hour examination period:

- Person shall be released, unless charged with a crime. If so, returned to law enforcement, or
- Person, unless charged with a crime, shall be asked to give express and informed consent to voluntary placement, or
- Petition for involuntary placement filed with Clerk of Circuit Court.

Marchman Act

Under protective custody and emergency admission, the assessment must be completed by a physician within 72 hours of admission.

For alternative involuntary assessment of a minor, the assessment must be completed by a qualified professional within 72 hours of admission but the minor may be retained for an additional 2 days if further assessment is determined necessary by a physician.

For involuntary assessment and stabilization, the assessment must be completed by a "qualified professional" within 5 days of the court's order with sign-off by a physician. If additional time is needed to complete an assessment the court, if requested by the service provider, may grant an extension not to exceed 7 days after the renewal order.

Release or Discharge

Baker Act 394.459(11), FS and 65E-5.1303, FAC

Notification of right upon discharge to seek treatment from the professional or agency of person's choice

Discharge planning, beginning at admission, must include:

- Transportation resources
- Access to stable living arrangements
- Assistance in securing need living arrangements or shelter for those at risk of readmission within 3 weeks due to homelessness and prior to discharge shall request a commitment from a shelter provider that assistance will be rendered
- Education and written information about the person's mental illness and medications
- Information about & referral to community resources, including peer support
- Referral to substance abuse treatment programs, trauma services, or other self-help programs
- Assistance in obtaining a timely aftercare appointment for needed services, including continuation of prescribed psychotropic medications within 7 days of discharge
- Access to psychotropic medications or prescriptions or a combination thereof provided until scheduled aftercare appointment or 21 calendar days

Marchman Act (65E-30.004(22), FAC)

A minor may only be released to:

- Parent, legal guardian or legal custodian
- To DCF pursuant to s.39, FS
- To DJJ pursuant to s.984, FS

Summaries required for all voluntary and involuntary departures from services.

- Transfer Summary: Completed immediately for clients transferring between components of same provider and within 5 calendar days when transferring to another provider. Entry must be made in record about circumstances of the transfer signed and dated by primary counselor. A Transfer Summary is defined to mean a written justification of the circumstances of the transfer of a client from one component to another or from one provider to another.
- Discharge Summary: A Discharge Summary is legally defined to mean a written narrative of the client's treatment record describing the client's accomplishments and problems during treatment, reasons for discharge, and recommendations for further services. A written discharge summary signed and dated by primary counselor must be completed for clients completing or leaving prior to completion including client's involvement in services, reason for discharge, and services needed following discharge, including aftercare.

Discharge from State Hospitals 65E-5.1305, FAC

- Completion of State Mental Health Facility Discharge form (CF-MH 7001)
- 7 days prior notice to community case management agency
- On day of discharge, physician or charge nurse immediately notifies aftercare provider using the Physician-to-Physician Transfer form (#7002)

Notice of Release from Involuntary Examination / Involuntary Admission

Baker Act

Notice of release must be given to the individual's guardian, guardian advocate, attorney, designated representative, to any person who executed a certificate admitting the patient, and to any court which ordered the examination.

Marchman Act

Notice of release must be given to the applicant in the case of emergency admission or an alternative assessment of a minor, or to the petitioner and the court in the case of involuntary assessment and that minor client can only be released to authorized individuals or agencies.

A client involuntarily admitted may be released without further order of the court only by a qualified professional. (397.6758, FS)

Involuntary Placement / Involuntary Treatment — Procedure for Filing Petitions

Baker Act (394.467, FS)

Criteria: 394.467(1), FS and 65E-5.290, FAC

Finding of the court by clear and convincing evidence that the individual:

- Has a mental illness and because of the mental illness:
- Has refused voluntary placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of placement for treatment; or was unable to determine whether placement is necessary; and
- Is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for self, and such neglect or refusal poses a real and present threat of substantial harm to his or her well being; or
- There is substantial likelihood that in the near future s/he will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and
- All available less restrictive treatment alternatives which would offer an opportunity for improvement of his or her condition have been judged to be inappropriate.

All criteria must be met

Marchman Act

Criteria: There is good faith reason to believe the person is substance abuse impaired and, because of such impairment:

1. Has lost the power of self-control with respect to substance use; and either

2a. Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or herself or another; or

2b. Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that the person is incapable of appreciating his or her need for such services and of making a rational decision in regard thereto; however, mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services.

In addition to meeting the above criteria for involuntary admissions, a person for whom a petition for involuntary treatment is filed must have met additional conditions including:

- Having been placed under protective custody within the previous 10 days;
- Having been subject to an emergency admission within the previous 10 days,
- Having been assessed by a qualified professional within the previous 5 days;
- Having been subject to a court ordered involuntary assessment and stabilization within the previous 12 days
- Having been subject to alternative involuntary admission within the previous 12 days.

Petition for Involuntary Placement

The Baker Act permits the administrator of a receiving facility to recommend placement in a treatment facility and to file a petition with the court as long as the recommendation is supported by a psychiatrist and a second opinion by another psychiatrist or clinical psychologist, both of whom have personally examined the patient within the preceding 72 hours and the criteria for involuntary examination are met. (2nd opinion may be electronic, maintaining visual & audio communication). Case law requires factual substantiation of each criteria alleged in the petition for involuntary inpatient placement – not just opinions, conclusions, or hearsay

- Petition (#3032) completed and filed within 72 hours of person's arrival at facility or filed on next court working day if 72-hour period ended on weekend or legal holiday – no exception for weeknights
- No fee charged.

Marchman Act (397.6951, FS)

The Marchman Act permits an adult's spouse or guardian, any relative, a service provider, or any three adults that have knowledge of the respondent and prior course of assessment or treatment to file a petition with the court. If the respondent is a minor, the petition may be filed by a parent, legal guardian, or service provider.

The Marchman Act also requires that the respondent have been involved in at least one of the other involuntary admission procedures within specified time frames before a petition can be filed for involuntary treatment:

Contents of Petition must include:

- Name of respondent
- Name of petitioner(s)
- Relationship between the respondent & petitioner
- Name of respondent's attorney
- Statement of petitioner's knowledge of respondent's ability to afford an attorney
- Findings & recommendations of the assessment performed by qualified professional
- Factual allegations presented by the petitioner establishing need for involuntary treatment, including:
- Reason for petitioner's belief that respondent is substance abuse impaired; and
- Reason for petitioner's belief that because of such impairment, respondent has lost power of self-control with respect to substance abuse; and either
- Reason petitioner believes the respondent has inflicted or is likely to inflict physical harm on self/others unless admitted; or
- Reason petitioner believes respondent's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse to be incapable of appreciating need for care and making a rational decision

Duties of the Court

Clerk of Court – provides required copies of the petition to individual, DCF, guardian, or representative, state attorney and public defender

Written notice of filing of petition for involuntary placement must contain: (394.4599(2)(c), FS)

- Petition filed with the circuit court in county where person is hospitalized.
- Office of public defender appointed to represent person if not otherwise represented by counsel.
- Date, time, and place of hearing, and name of each examining expert and every other person expected to testify in support of continued detention.
- Person entitled to independent expert examination and, if person cannot afford examination, court will provide for one; and
- Notice that person, guardian, representative or administrator may apply for change of venue for convenience of parties or witnesses or because of person's condition.

Marchman Act (397.6955, FS)

- Upon filing of petition with clerk of court, court shall immediately determine if respondent has attorney or if appointment of counsel is appropriate
- Court scheduled hearing w/i 10 days.
- Copy of petition and notice of hearing provided to respondent; attorney, spouse or guardian if applicable, petitioner, (parent, guardian or custodian of a minor), and other persons as the court may direct; and
- Issue a summons to respondent.

Burden of Proof by Clear and Convincing Evidence

Evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm belief or conviction, without hesitation, about the matter at issue (Standard Jury Instructions – Criminal Cases, published by the Supreme Court of Florida, No. SC95832, June 15, 2000).

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Appointment of Counsel

The Baker Act sets the time for appointing a Public Defender within 1 court working day, unless the person is otherwise represented by private counsel. The State Attorney's Office is appointed as the "real party in interest" to represent the state.

The Marchman Act requires that the court immediately determine whether the respondent is represented by counsel or whether appointment of an attorney is appropriate. No specific time is specified.
Neither the Public Defender nor the State Attorney is assigned responsibility in the Marchman Act or chapter 27, FS.

Hearings for Involuntary Placement / Treatment

Baker Act

- Hearing held within 5 court working days unless continuance requested by person, with concurrence of counsel. No waiver of hearing.
- Held as convenient to person as consistent with orderly procedure and not likely to be injurious to person's condition
- Judge or magistrate presides
- Person's attendance at hearing -- any waiver of right to be personally present at hearing must be knowing, intelligent, and voluntary.
- Witnesses:
  - 1 of the 2 examining professionals who executed placement certificate must be a witness
  - Anyone else that has fact testimony to support continued detention. (staff, family, case manager, others)
- Person may refuse to testify at the hearing
- Competence to consent to treatment must be considered – If incompetent, guardian advocate appointed

Marchman Act (397.6957, FS)

- The hearing must occur within 10 days of the petition with no possibility of a continuance.
- All relevant evidence, including results of all involuntary interventions must be considered
- Judge or magistrate presides
- Client to be present unless injurious – if so, court will appoint guardian advocate
- Petitioner has burden of proving by clear & convincing evidence that all criteria for involuntary admission are met

Court will either dismiss petition or order client to involuntary treatment.

Initial Order

Baker Act

If a court concludes person meets all criteria for involuntary inpatient placement, it shall order person, for a period of up to 6 months:

- Transferred to a treatment facility or, if the person is at a treatment facility, that the person be retained there, or
- Treated at any other appropriate receiving or treatment facility, or
- Receive services from a receiving or treatment facility

Marchman Act (397.697, FS)

- Order for involuntary treatment by licensed provider up to 60 days
- Order authorizes provider to require client to undergo treatment that will benefit.
- Order must include court's requirement for notification of proposed release.
- Court may order Sheriff to transport
- Court retains jurisdiction over case for further orders.

Hearings on Continued Involuntary Placement / Treatment

Hearings on petitions for continued placement or extensions are administrative hearings and conducted in accordance with section 120.57(1), F.S. Any order entered by a hearing officer is final and subject to judicial review. Appellate case established that Courts and Division of Administrative Hearings (DOAH) have concurrent jurisdiction within the first six months of an order.

The Marchman Act requires that the petition be filed not more than 10 days prior to the end of the initial period.

Extension of Order

Baker Act (394.467(6), FS)

The Baker Act provides that petitions on continued placement be filed prior to the expiration of the period the treatment facility is authorized to retain the patient. The Baker Act permits a continued placement extension of up to 6 months.

- If person continues to meet criteria for involuntary inpatient placement, administrator shall, 20 days prior to expiration of period during which treatment facility is authorized to retain person, file petition (#3035) requesting authorization for continued involuntary inpatient placement.
- The request for continued involuntary placement must be accompanied by:
  - A statement from person's physician or clinical psychologist justifying the request
  - A brief description of person's treatment during the time he/she was involuntarily placed
  - An individualized plan of continued treatment
- Waiver of person's presence at hearing may be filed, but no waiver of hearing. The testimony in the hearing must be under oath and the proceedings must be recorded
- If previously found incompetent to consent to treatment, testimony and evidence regarding the person's competence must be considered. If person is now competent to consent to treatment, the administrative law judge may issue a recommended order to court that found person incompetent to consent to treatment that person's competence be restored and any guardian advocate previously appointed be discharged. (#3116)
- If at hearing person continues to meet criteria for involuntary placement, administrative law judge will sign order (#3031) for continued involuntary inpatient placement for period not to exceed 6 months. Same procedure repeated prior to expiration of each additional period the person is retained.
- If person is found not to meet criteria for involuntary inpatient placement, he/she must be released or transferred to voluntary status

Marchman (397.6975, FS)

When criteria still exists, a renewal of involuntary treatment order may be requested if filed at least 10 days prior to the end of the 60-day period.

- Hearing scheduled within 15 days of filing
- Copy of petition to all parties
- If grounds exist, may be ordered for up to 90 additional days.
- Further petitions for 90 day periods may be filed if grounds for involuntary treatment persist.

Release from Involuntary Placement / Treatment & Notices

At any time a person is found to no longer meet the criteria for involuntary placement, the administrator shall:

- Discharge person, unless under a criminal charge, in which case the person shall be transferred to the custody of law enforcement; or
- Transfer person to voluntary status if willing and competent to provide express and informed consent, unless the person is under criminal charges or adjudicated incapacitated; or
- Place improved person, unless under a criminal charge, on convalescent status in the care of a community facility.
- Notice of discharge/transfer shall be given (#3038).

After 60-day involuntary treatment, client automatically discharged unless petition timely filed with court.

- Person may be released by a qualified professional without court order.
- Notice of release provided to applicant for a minor or to petitioner and court if court-ordered.
- Release of minor must be to parent or guardian, DCF or DJJ.
- An involuntarily admitted client may, upon giving written informed consent, be referred to a service provider for voluntary admission when the provider determines that the client no longer meets involuntary criteria.
- When a court ordering involuntary treatment includes requirement in court order for notification of proposed release, provider must notify the original referral source in writing.

Early Release: Client must be released when: (397.6971, FS)

- Basis for involuntary treatment no longer exist
- Converts to voluntary upon informed consent
- No longer in need of services
- Client is beyond safe management of the provider
- Further treatment won't bring about further significant improvements.

Notification shall comply with legally defined conditions and timeframes and conform to federal and state confidentiality regulations.

Responsibilities of Providers

Baker Act (394.461, FS and 65E-5.350 and 65E-5.180(5), FAC)

- Provide onsite emergency reception, screening & inpatient treatment services 24 hours a day, 7 days a week, regardless of ability to pay
- Accept any person brought by law enforcement for involuntary examination (hospitals must accept regardless of leagal status).
- Accept persons of all ages
- Assess all persons for clinical safety, co-occurring disorders, substance abuse, physical/sexual abuse or trauma
- Comply with all EMTALA requirements, if a hospital
- Public receiving facilities affiliated with community mental health centers must ensure the centralized provision and coordination of acute care services for eligible persons with acute mental illnesses. (394.459(11), FS and 65E-5.1304, FAC)
- Failure to have the original form initiating involuntary admission or an original signature on the form is not a basis for refusing an admission.
- The hospital licensing law requires all hospitals that examine or treat an individual of any age who is held under the Baker Act must adhere to all requirements as it applies to that individual, as follows:
  - 395.003(5)(a), FS "Adherence to patient rights, standards of care, and examination and placement procedures provided under part I of chapter 394 shall be a condition of licensure for hospitals providing voluntary or involuntary medical or psychiatric observation, evaluation, diagnosis, or treatment".
  - 395.003(5)(b), FS "Any hospital that provides psychiatric treatment to persons under 18 years of age who have emotional disturbances shall comply with the procedures pertaining to the rights of patients prescribed in part I of chapter 394".
  - 395.1041(6), FS Rights of Persons being Treated.-- A hospital providing emergency services and care to a person who is being involuntarily examined under the provisions of s.394.463 shall adhere to the rights of patients specified in part I of chapter 394 and the involuntary examination procedures provided in s.394.463, regardless of whether the hospital, or any part thereof, is designated as a receiving or treatment facility under part I of chapter 394 and regardless of whether the person is admitted to the hospital.
  - 395.1055(5), FS "The agency (AHCA) shall enforce the provisions of part I of chapter 394, and rules adopted thereunder, with respect to the rights, standards of care, and examination and placement procedures applicable to patients voluntarily or involuntarily admitted to hospitals providing psychiatric observation, evaluation, diagnosis, or treatment".

Marchman Act (397.6751, FS and65D-30.004, FAC)

Person must be admitted when sufficient evidence exists that:

- Person is substance abuse impaired
- Setting Is the least restrictive and most appropriate
- Within licensed capacity
- Medical & behavioral conditions can be safely managed
- Within financial means of person (Other than licensed hospitals per EMTALA)

Providers receiving state funds for substance abuse services can't deny access based on inability to pay if space and sufficient state resources are available. Access cannot be denied based on race, gender, ethnicity, age, sexual preference, HIV status, disability, use of prescribed medications, prior service departures against medical advice, or number of relapse episodes.

If admission is refused (397.6751, FS) the provider must, in compliance with federal confidentiality regulations:

1. Attempt to contact referral source to discuss circumstances and assist in arranging alternate intervention.
2. Provider must within 1 workday of refusal, report in writing to referral source:
   - Basis for refusal
   - Documentation of provider's efforts to contact the referral source and assist person to access more appropriate services.
3. If medical or behavior can't be safely managed, provider must discharge and assist to secure more appropriate services. Within 72 hours, report to referral source basis for discharge and provider's efforts to assist client.

Persons on involuntarily status can only be placed in licensed service providers in components authorized to accept involuntary clients.

Providers accepting person on involuntary status must provide a description of the eligibility and diagnostic criteria and the placement process to be followed for each of the involuntary placement procedures

Each person involuntarily admitted shall be assessed by a qualified professional to determine need for additional treatment and most appropriate services.

Decision to refuse to admit or to discharge shall be made only by a qualified professional.

Failure to have the original form initiating involuntary admission or an original signature on the form is not a basis for refusing an admission.

Rights: General

Baker Act

- Written copy of rights at admission
  - Signed by person
  - Copies to significant others
- Discussion of rights during hospitalization
- Posting of rights & phone numbers near phone:
  - Abuse Registry / Hotline
  - Disabilities Rights Florida, Inc.
  - ADA
- Copy of Baker Act statute & rules on each unit

Marchman Act (397.501, FS and 65D-30.004, FAC)

Clients receiving substance abuse services from any service provider are guaranteed protection of fundamental human, civil, constitutional and statutory rights including those specified in the Marchman Act unless otherwise expressly provided, and service providers must ensure the protection of such rights.

Basic client rights include provisions for informing the client, family member, or authorized guardian of their rights and responsibilities, assisting in the exercise of those rights, and an accessible grievance system for resolution of conflicts;

Rights: Individual Dignity

Baker Act (394.459(1), FS and 65E-5.150 FAC)

- All Constitutional Rights
- Freedom of Movement – no restraint or seclusion except for safety of person or others (imminent danger)
- Outdoors & Exercise – at least ½ hour per day out of doors unless prohibited by physician's order when suitable area is immediately adjacent to unit
- Special Clothing – prohibited for identification purposes
- Procedures, facilities, vehicles, and restraining devices used for criminals not be used with persons who have a mental illness, except for protection of the person or others

Marchman Act 397.501(1), FS

- Guaranteed the protection of all fundamental human, civil, constitutional, and statutory rights.
- Respect at all times, including when admitted, retained, or transported.
- Cannot be placed in jail unless accused of a crime except for adults under protective custody.
- Must permit grievances to be filed for any reason

Rights: Treatment

Baker Act (394.459(2), FS and 65E-5.160, FAC)

- No denial or delay of treatment due to inability to pay – may collect appropriate reimbursement
- Least restrictive appropriate & available treatment required
- Physical examination within 24 hours by authorized health care practitioner
- Posted schedule of daily activities
- Individualized treatment plan within 5 days. Person must have had opportunity to assist in preparing and reviewing plan. Form must have space for person's comments

Marchman Act

- See right to quality services below
- Services suited to client's needs, administered skillfully, safely, humanely, with full respect for dignity/integrity, and in compliance with all laws and requirements.
- Opportunity to participate in formulation & review of individualized treatment / service plan.

Treatment Planning (394.459(2)(d), FS and 65E-5.160 (2), FAC) must include:

- Advance directives-person's preferences for mental health care
- Diagnostic testing
- Person's treatment goals
- Housing
- Social supports
- Financial supports
- Health, including mental health
- Observable, measurable & time-limited objectives
- Progress notes
- Periodic reviews
- Integrated approach to treatment
- Updates & physician summary every 30 days

"Treatment Plan" means an individualized, written plan of action that directs all treatment services and is based upon information from the assessment and input from the client served. The plan establishes client goals and corresponding measurable objectives, time frames for completing objectives, and the type and frequency of services to be provided.

Each client shall be afforded the opportunity to participate in the development and subsequent review of the treatment plan. The treatment plan shall include:

- Goals and related measurable behavioral objectives to be achieved by the client,
- Tasks involved in achieving those objectives,
- Type and frequency of services to be provided, and
- Expected dates of completion.

The treatment plan shall be signed and dated by the person providing the service, and signed and dated by the client. If the treatment plan is completed by other than a qualified professional, the treatment plan shall be reviewed, countersigned, and dated by a qualified professional within 10 calendar days of completion.

Rights: Express and Informed Consent

Baker Act 394.459(3), FS and 65E-5.170, FAC	Marchman Act
Competence is well reasoned, willful & knowing decision-making. Prior to requesting consent to treatment, the following must be provided and explained in plain language: • The reason for admission or treatment, • Proposed treatment, including psychotherapeutic medications • Purpose of treatment • Alternative treatments • Specific dosage range for medications • Frequency and method of administration • Common risks, benefits and short-term/long-term side effects • Contraindications • Clinically significant interactive effects with other medications, • Similar information on alternative medication which may have less severe or serious side effects. • Potential effects of stopping treatment • Approximate length of care • How treatment will be monitored, and that • Any consent for treatment may be revoked orally or in writing before or during the treatment period by the person legally authorized to make health care decisions for the person.	Informed consent required, but not separately defined or described in Marchman Act.

Who can give consent?
• Competent adult
• Guardian of a child
• Court Appointed Guardian
  • Court Order
  • Letters of Guardianship
• Guardian advocate / court order
• Health care surrogate or proxy / Advance Directive
If competent to consent, person is competent to refuse or revoke consent! If incompetent to consent, person is incompetent to refuse or revoke consent and a substitute decision-maker must be appointed.
	Who can give consent?
	• Adults
	• Minors

Authorization for Treatment 65E-5.170(2), FAC **General Authorization for Treatment (#3042a)** • Routine medical care • Psychiatric assessment • Assessment/treatment other than medications **Specific Authorization for Psychotropic Medications (#3042b)** • Disclosure by qualified personnel • Completed prior to administration • By authorized decision-maker	No corresponding provisions
Emergency Treatment Orders 394.463(2)(f), 394.4625(5), FS and 65E-5.1703, FAC • Document specific nature & extent of imminent danger to self or others (not just "agitated" or "disruptive") • Must attempt to contact guardian, guardian advocate or health care surrogate / proxy to obtain consent • Medical review of person's condition for causal medical factors • Written order of a physician required-Initial order by phone • Written order signed within 24-hours • No PRN or standing orders • Each order valid not to exceed 24-hours; daily renewal by physician if dangerousness continued	No corresponding provisions

Petition for Guardian Advocate: • Petition must be initiated within 24 hours of ETO & submitted to court within 2 court working days thereafter unless only single ETO is needed. • If 2nd ETO written within 7 days, petition must be filed with court within 1 court working day thereafter requesting appointment of a guardian advocate.	No corresponding provisions

Rights: Quality Treatment / Services

Baker Act 394.459(4), FS and 65E-5.180, FAC Receiving and treatment facilities are required to maintain in a form accessible to and readily understandable: • Criteria, procedures, & staff training required for any use of & procedures for documenting, monitoring, and requiring clinical review of: • Close or elevated levels of supervision • Use of bodily control and physical management techniques • Restraint, seclusion or isolation • Emergency treatment orders • Procedures for documenting and reviewing incidents resulting in injury. • A system for investigating, tracking, managing, and responding to complaints by persons or others acting on their behalf.	**Marchman Act 397.501(3), FS** Least restrictive and most appropriate services, based on needs and best interests of client. Services suited to client's needs, administered skillfully, safely, humanely, with full respect for dignity/integrity, and in compliance with all laws and requirements. Methods used to control aggressive client behavior that pose an immediate threat to the client or others – used by staff trained & authorized to do so – in accordance with rule. Opportunity to participate in formulation & review of individualized treatment / service plan.
Emergency Orders Facilities must comply with the most stringent standards that apply to their facility, including ETO's, restraints, seclusion, and other emergency interventions. These may include: • Baker Act law and rules --Baker Act rules governing restraints & seclusion rewritten in 2008. • Joint Commission on Accreditation of Healthcare Organizations or CARF • Federal Conditions of Participation (CMS) • Facility policies and procedures	

Rights: Confidentiality

Variety of federal/state statutes and case law govern confidentiality:

- Baker Act
- Psychotherapist / patient privilege
- Substance Abuse
- HIPAA (treatment, operations and payment exempted)
- Substitute Decision-Makers
- Communicable Diseases
- Duty to report abuse, neglect & exploitation of children & vulnerable adults
- Foreign Nationals – Consular Notification & Access

Unless person, guardian, guardian advocate, or surrogate/proxy waives by express and informed consent, confidentiality of record shall not be lost.

Information from record may be released:

- By court order after good cause hearing
- After declaration of intent to harm – may release sufficient information to adequately warn person threatened. Tarasoff warning not required in Florida
- Inform guardians of threats by minors
- Warn of threats of future harm, but not confessions of past crimes

Person has right of reasonable access to own clinical record unless determined by physician to be harmful. If restricted:

- Recorded, with reasons, in clinical record
- Notice to person, attorney, and others
- Expires in 7 days but can be renewed

Facility policies should identify:

- What is reasonable access?
- Is this all "persons" – minors? incapacitated?
- Who will review for harmfulness?
- How, where & with whom actual review will take place?

Identity, diagnosis, prognosis, and service provision to any client is confidential.

- Disclosure requires written consent of client, except:
- Medical personnel in emergency
- Provider staff on "need to know" to carry out duties to client.
- DCF Secretary/designee for research (non-identifying)
- Audit or evaluation by federal, state, local governments, or 3rd party payor
- Court order for good cause based on whether public interest/need for disclosure outweigh potential injury to client or provider to authorize disclosure but subpoena then required.to compel.

Other Confidentiality Considerations:

- Restrictions inapplicable to reporting of suspected child abuse.
- Minor may consent to own disclosure – consent can only be given by the minor
- If consent of guardian required to obtain services for minor, both minor & guardian must consent to disclosure
- 42 CFR (Code of Federal Regulations) and HIPAA also control how information can be released – most stringent prevails.

Release to Law Enforcement directly related to commission of a crime on premises or against staff or threat to do so. Limited to:

- Client's name and address
- Circumstances of incident
- Client status
- Client's last known whereabouts.

Court can authorize for criminal investigation or prosecution only if all the following criteria are met:

- Crime is extremely dangerous
- Records will be of substantial value
- No other methods available or effective
- Potential injury to client or program outweighed by public interest and need to know

Confidentiality and the Court:

- Court order authorizes but does not compel disclosure of client identifying data.
- Subpoena must then be issued to compel disclosure.
- Client and provider must be given notice and opportunity to respond or to appear to provide evidence.
- Oral argument, review of evidence or hearing in chambers.

Patient and personnel records in hospitals; copies; examination

Baker Act (395.3025(2), FS)
This section of the hospital statute does not apply to records maintained at any licensed facility the primary function of which is to provide psychiatric care to its patients, or to records of treatment for any mental or emotional condition at any other licensed facility which are governed by the provisions of s. 394.4615.

Marchman 395.3025(3), FS
This section of the hospital statute does not apply to records of substance abuse impaired persons, which are governed by s. 397.501.

Rights: Communication, Abuse Reporting & Visitation

Baker Act 394.459(5), FS and 65E-5.190, FAC

Guaranteed regardless of age or development, but facility shall establish reasonable rules governing visitors and use of telephones

Visits: Immediate access by family, guardian, guardian advocate, representative, or attorney, unless found to be detrimental

Telephone:

- Free local calls / Access to long-distance
- Private and confidential communication
- Phone located near posters giving advocate phone numbers
- Unlimited telephone for abuse reporting, attorney, & Disability Rights Florida, Inc.

Correspondence

- Stationery/stamps/gifts
- Send / receive unopened correspondence without delay
- Reasonable examination of suspected contraband & disposal

Restriction of Communication (#3049)

- Written notice with reasons to person, attorney, guardian, guardian advocate, or representative
- Reviewed every 7 days

Waiver: Competent adults may waive the confidentiality of their presence in a receiving or treatment facility

Marchman Act 397.501(4), FS

- Free & private communication within limits imposed by provider policies.
- Close supervision of all communication & correspondence required.
- Reasonable rules for mail, telephone & visitation to ensure the well-being of clients, staff & community.
- Clients and families must be informed about provider rules related to communication and correspondence

Rights: Care & Custody of Personal Effects

Baker Act 394.459(6), FS and 65E-5.200, FAC

Right to possess clothing / personal effects except for medical and safety reasons. Receiving and treatment facilities must develop policies and procedures governing:

- What will be removed for reasons of personal or unit safety
- How it will be safely retained by the facility
- How/when it will be returned
- How contraband will be addressed when not returned

Inventory:

- Witnessed by person and two staff
- At time of admission and when amended

Marchman Act 397.501(5), FS

- Right to possess clothing and other personal effects.
- Provider may take temporary custody of personal effects only when required for medical or safety reasons.
- If removed, reasons for taking custody and a list of the personal effects must be recorded in clinical record.

Rights: Non-Discrimination

Baker Act

No corresponding provision.

Marchman Act (2)

Service providers may not deny a client access to substance abuse services solely on the basis of race, gender, ethnicity, age, sexual preference, HIV status, prior service departures against medical advice, disability, or number of relapse episodes. Service providers may not deny a client who takes medication prescribed by a physician access to substance abuse services solely on that basis. Service providers who receive state funds to provide substance abuse services may not, provided space and sufficient state resources are available, deny a client access to services based solely on inability to pay.

Rights: Voting in Public Elections

Baker Act 394.459(7), FS and 65E-5.210, FAC

- A person in a facility who is eligible to vote has the right to vote in the primary and general elections
- Receiving and treatment facilities shall have voter registration forms and applications for absentee ballots readily available at the facility (or in accordance with the procedures established by the County supervisor of elections), and shall assure that each person who is eligible to vote and wishes to do so, may exercise his or her franchise
- Each designated facility shall develop policies and procedures governing how persons will be assisted in exercising their right to vote

Marchman Act

No corresponding provisions

Rights: Right to Counsel

Baker Act (394.467(4), FS)
The Public Defender is responsible for representing all persons on involuntary placement status unless represented by private counsel

Marchman Act 397.501(8), FS
- Client must be informed of right to counsel at every stage of involuntary proceedings.
- May be represented by counsel in any involuntary proceeding for assessment, stabilization, or treatment.
- Person (or guardian of a minor) may immediately apply to court to have attorney appointed, if unable to afford one.
- No reference to Public Defender in Marchman Act or Chapter 27, FS.

Rights: Habeas Corpus

Baker Act 394.459(8), FA and 65E-5.220, FAC
Each person (any age or legal status) admitted to a receiving or treatment facility must have written notice of right to petition (#3036) for writ:
- Cause and legality of detention
- Unjustly denied a right or privilege
- Abuse of procedure authorized in law

Petition (#3090) filed any time/without notice by:

Individual	Guardian Advocate
Relative	Representative
Friend	Attorney
Guardian	DCF

Facility files petition (any format preferred by the individual) with clerk of court on next working day. No fee charged

Marchman Act 397.501(9), FS
- Filed at any time and without notice
- Filed by client involuntarily retained or parent, guardian, custodian, or attorney on behalf of client
- May petition for writ to question cause and legality of retention and request the court to issue a writ for client's release

Rights: Separation of Children from Adults

Baker Act 394.4785, FS and 65E-12, FAC
Hospitals:
- Age 0-13 no contact with adults
- Age 14-17 share common areas with adults but share bedroom with adult only if doctor documents medical or safety issues daily
- Children and adolescents can be mixed

CSUs:
- Age 0-13 can share common areas with adult when under direct visual observation by staff but cannot share bedroom with an adult
- Age 14-17 share common areas with adults but share bedroom with adult only if doctor daily documents medical or safety issues

Marchman Act
No corresponding provisions

Rights: Education of Minors

Baker Act
No corresponding provision.

Marchman Act
Each minor client in a residential service component is guaranteed education and training appropriate to his or her needs. The service provider shall coordinate with local education agencies to ensure that education and training is provided to each minor client in accordance with other applicable laws and regulations and that parental responsibilities related to such education and training are established within the provisions of such applicable laws and regulations. Nothing in this chapter may be construed to relieve any local education authority of its obligation under law to provide a free and appropriate education to every child.

Special Issues

Sexual Misconduct Prohibited

Baker Act 394.4593, FS

- Sexual Misconduct means any sexual activity between an employee and a patient, regardless of the consent of the patient.
- An employee engaging in sexual misconduct with patient in DCF custody or in a receiving/treatment facility commits a felony.
- An employee who witnesses, knows of, or has reasonable cause to suspect sexual misconduct must immediately report to the Abuse Registry and to law enforcement. Failure to do so is a misdemeanor.
- Employee must prepare, date, sign independent report describing nature of the sexual misconduct, location/time of incident, and persons involved. Report must be given to program director for submitting to DCF Inspector General who will immediately investigate.

Marchman Act

No corresponding provisions

Complaints and Grievances

Baker Act 394.459(4)(b)3, FS and 65E-5.180 FAC

Policy/procedures required to receive, review, investigate, track, manage and respond to formal/informal complaints by person or others.

- Process explained verbally at orientation and provided in writing:
- How complaints can be addressed informally and formally with staff
- Informed of Abuse Registry, Advocacy Center or others to request assistance
- Process, including phone numbers for above posted next to phones.
- Life-safety issues acted upon immediately

Formal complaints:

- Person not named in complaint will assist.
- Will include date/time of complaint and detail issue/remedy sought
- Forward to staff assigned to track/monitor

All formal complaints must contain:

- Name of complainant
- Name of person receiving services
- Nature of complaint
- Date/time received by staff
- Date/time received by person who will track
- Name of person assigned to investigate
- Date person notified of who will investigate
- Due date for written response

Written disposition of formal complaint.

- Written response provided to person within 24 hours of disposition. If complainant other than patient, not given details of disposition without consent, unless having right to information.

Disposition can be appealed to administrator who will review and make final decision within 5 working days and provide written response within 24 hours thereafter.

Marchman Act (65D-30.004 (29) FAC)

Grievance procedure must include:

- Provisions assuring that a grievance may be filed for any reason with cause;
- The prominent posting of notices informing clients of the grievance system;
- Access to grievance submission forms;
- Education of staff in the importance of the grievance system and client rights;
- Specific levels of appeal with corresponding time frames for resolution;
- Timely receipt of a filed grievance;
- The logging and tracking of filed grievances until resolved or concluded by actions of the provider's governing body;
- Written notification of the decision to the appellant; and
- Analysis of trends to identify opportunities for improvement.

Client Responsibility for Cost of Care

Baker Act

Chapter 394, Part I, FS, the Baker Act, makes no reference to payment for care and treatment. However, the Florida Attorney General has issued opinions stating that DCF (with county matching funds) is responsible for establishing public receiving facilities but that persons served in private receiving facilities are responsible for their own cost of care.

Marchman Act (397.431, FS)

- Publicly funded providers must have a fee system based upon a client's ability to pay, and if space and sufficient state resources are available, may not deny a client access to services solely on the basis of client's inability to pay.
- Full cost and fee charged must be disclosed to client
- Client (or guardian of minor) required to contribute toward costs, based on ability to pay
- Guardian of minor not liable if services provided without parent consent unless guardian ordered to pay

Parental Responsibility

No corresponding provisions other than the consent to treatment for the minor and the application for voluntary admission must be filed by the parent or guardian with the agreement *(assent)* of the minor.

Parental Participation (397.6759, FS)
A parent, legal guardian, or legal custodian who seeks involuntary admission of a minor to substance abuse treatment is required to participate in all aspects of treatment as determined appropriate by the director of the licensed service provider.

Designated Representative

Baker Act
Voluntary: No notice except emergency

Involuntary: Name/address/phone # of guardian, guardian advocate & attorney in record. If no guardian, person selects own representative. Only if person unable/unwilling to select, facility must select from list, in order of listing:

- Health care surrogate
- Spouse
- Adult child
- Parent
- Adult next of kin
- Adult friend

The following shall not be designated:

- Licensed professional serving the person
- Employee of facility serving the person
- DCF employee
- Person in professional/business services
- Creditor of person

Role of Designated Representative:

- To receive notice of individual's admission;
- To receive notice of proceedings affecting the individual;
- To have immediate access to the individual held or admitted for mental health treatment, unless such access is documented to be detrimental to the individual;
- To receive notice of any restriction of the individual's right to communicate or receive visitors;
- To receive copy of the inventory of personal effects upon the individual's admission and to request amendment to the inventory at any time;
- To receive disposition of the individual's clothing and personal effects, if not returned to the individual, or to approve an alternate plan;
- To petition on behalf of the individual for a writ of habeas corpus
- To apply for a change of venue for the individual's involuntary placement hearing for the convenience of the parties or witnesses or because of the condition of the individual;
- To receive written notice of any restriction of the individual's right to inspect his or her clinical record;
- To receive notice of release of the individual from a receiving facility where an involuntary examination was performed;
- To receive a copy of any petition for the individual's involuntary placement filed with the court; and
- To be informed by the court of the individual's right to an independent expert evaluation, pursuant to involuntary placement procedures.

Marchman Act
No corresponding provisions in the Marchman Act

Guardian Advocate

Baker Act 394.4598, FS and 65E-5.230, FAC	Marchman Act
Duties begin after appointment by court and completion of training Duties terminate upon person's discharge, transfer to voluntary status, restoration of competency, or expiration of involuntary placement order.	No corresponding provisions in the Marchman Act
Prior to appointment: • Receive information about duties/ethics of medical decision-making • Agree to serve Prior to decision-making: • Full disclosure of treatment information • Attend 4-hour training course approved by court (GA manual and/or DCF on-line course) • Successfully pass test • Meet and talk with individual and physician in person if possible; by telephone if not Authority: • Mental health decisions and court may also authorize medical decisions.	
Extraordinary decisions after separate hearing (#3108-3109) for the following: • Electroconvulsive treatment • Experimental treatments not approved by IRB • Sterilization • Abortion • Psychosurgery Decisions by guardian advocate may be reviewed by court, upon petition of person's attorney, family or facility administrator Replacement guardian advocate can be appointed by the court	

Health Care Surrogates & Proxies

Baker Act 765 FS and 65E-5.2301, FAC	Marchman Act
Advance Directive: instruction given by a person expressing his/her desires about health care, including the designation of a health care surrogate Surrogate: Selected by the person, when competent, in an advance directive. Person can designate an alternative surrogate, or a separate surrogate for mental health than one for other medical care Proxy: In the absence of an advance directive, selected in priority order from statutory list: • Guardian • Spouse • Adult child • Parent • Adult sibling • Adult relative • Close friend* • Clinical Social Worker* Incapacity may not be inferred from the person's voluntary or involuntary hospitalization for mental illness or retardation. Policy: On interim basis, between time person is determined by a physician to be incapacitated to consent to treatment and time guardian advocate is appointed by court to provide express and informed consent to treatment, a health care surrogate or proxy may provide or refuse consent.	No corresponding provisions in the Marchman Act. However, a health care surrogate or proxy provided under chapter 765, FS is authorized to make any and all health care decision for an individual who has been found by a physician to be incompetent/incapacitated to make his/her own health care decisions. Substitute Judgment required if preference of individual is known.

Authority:
- To make all health care decisions, including mental health, based on the decisions the person would have made if competent to do so – "Substitute Judgment"
- Apply for benefits
- Access person's clinical record
- Authorize release of information and clinical records
- Authorize transfer to another facility.

Prohibited Procedures:
- Voluntary admission to MH facility
- Consent to treatment for persons on voluntary status
- ECT
- Experimental treatment not approved by IRB
- Sterilization
- Abortion
- Psychosurgery

Process:
- Attending physician documents incapacity of person
- Surrogate or proxy notified in writing that authority has commenced (#3122)
- Proxy signs Affidavit (#3123)
- Authority in effect until determination that person has regained capacity
- Petition for Adjudication of Incompetence to Consent to Treatment and Appointment of Guardian Advocate (#3106) filed within 2 court working days of physician determination
- Provide to surrogate or proxy same information required to be given to guardian advocate and make same training available
- Ensure surrogate or proxy talks with individual and physician in person if possible, if not, by telephone
- Surrogate or proxy given full disclosure prior to requesting authorization for treatment
- Advance Directives can be revoked at any time by a competent person

Decisions of a health care surrogate or proxy may be reviewed by a judge at the request of the persons' family, the facility, or physician, or other interested person

Restraints & Seclusion

Baker Act 394.459(4), FS 65E-5.180(7), FAC	Marchman Act (65D-30.005(14), FAC)
Restraint is a physical device, method, or drug used to control behavior. Physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to individual's body so he/she cannot easily remove the restraint and which restricts freedom of movement or normal access to one's body. Physically holding a person during a procedure to forcibly administer psychotropic medication is a physical restraint. Drug used as a restraint is medication to control person's behavior or restrict freedom of movement & is not part of standard treatment regimen of a person with a diagnosed mental illness. (ETO not necessarily a chemical restraint) Restraint excludes physical devices or other physical holding when necessary for routine physical examinations and tests; or for purposes of medical treatment; used to provide support for body position or proper balance; or when used to protect a person from falling out of bed. Seclusion means physical segregation of person in any fashion or involuntary isolation of person in an area person is prevented from leaving by physical barrier or by a staff member who is acting in a manner, or who is physically situated, so as to prevent person from leaving.	Restraint means: • Any manual method used or physical or mechanical device, material, or equipment attached or adjacent to a client's body that he or she cannot easily remove and that restricts freedom of movement or normal access to one's body; and • A drug used to control a client's behavior when that drug is not a standard treatment for the client's condition. Seclusion means the use of a secure, private room designed to isolate a client who has been determined by a physician to pose an immediate threat of physical harm to self or others.
Prohibitions • Can't be based on person's history or on PRN or standing order • Can't be restrained in prone position unless required to prevent imminent serious harm • Objects impairing respiration can't be placed over person's face -- staff may wear protective gear when needed. • Hands can't be secured behind back except to prevent serious injury • Walking restraints prohibited except for off-unit transportation under direct observation of staff • Simultaneous S/R not used for minors • Can't locate restrained person in areas subject to view by anyone other than involved staff or where exposed to potential injury by other persons. • Can't be placed in S/R in nude or semi-nude state.	
Prior to Restraint or Seclusion • Staff must be trained as part of orientation and on annual basis. Specific required training itemized in rule. • Personal Safety Plan (3124) address individual triggers leading to psychiatric crisis completed ASAP after admission and filed in the person's record. • Plan reviewed by team & updated as needed after each S/R. Specific intervention techniques from personal safety plan offered or used prior to S/R event documented in record. • Each person must be searched for contraband before or immediately after being placed into seclusion or restraints	

Initiating Restraint or Seclusion

- RN or highest level staff permitted by policy, immediately available & trained in S/R may initiate in emergency when danger is imminent. S/R order obtained from physician, ARNP, or PA, if permitted by the facility & stated within professional protocol. If treating physician didn't order S/R, must be consulted ASAP.
- Examination conducted within 1 hour by physician or delegated to an ARNP, PA or RN, if authorized by facility & trained in S/R including:
- Face-to-face assessment of person's medical/behavioral condition
- Review of record for pre-existing medical condition contraindicating use of S/R
- Review of person's medication orders including an assessment of the need to modify such orders during the period of S/R, and
- Assessment of need or lack of need to elevate person's head and torso during restraint.

Orders for Restraint or Seclusion

Each written order for S/R limited to:

- 4 hours for adults, age 18 and over
- 2 hours for minors age 9 - 17; or
- 1 hour for children under age 9

- All orders signed within 24 hours of initiation. S/R order may be renewed up to total of 24 hours, after consultation/review by physician, ARNP, or PA in person, or by telephone with a RN who has physically observed/evaluated person.
- When order has expired after 24 hours, physician, ARNP, or PA must see/assess person before S/R can be re-ordered. Results of assessment documented. Administrator notified of S/R use exceeding 24 hours.
- Order shall include specific behavior prompting use of S/R, the time limits, & behavior necessary for release. Restraint orders must contain type of restraint ordered & positioning of person, considering age, physical fragility & physical disability.

During Restraint and Seclusion

- Each person immediately informed of behavior resulting in S/R and criteria necessary for release.
- Facility must notify guardian of minors in S/R ASAP, but no later than 24 hours and document notice in record, including date/time of notification & name of staff providing notification.
- For each use of S/R, following information shall be documented in record:
- The emergency situation resulting in S/R; Alternatives/other less restrictive interventions attempted or clinical determination that less restrictive techniques could not be safely applied;
- Name/title of staff initiating S/R
- Date/time of initiation & release;
- Person's response to S/R, including rationale for continued use of the intervention; and
- That the person was informed of behavior resulting in S/R & criteria necessary for release.
- When restraint initiated, nurse must assess person ASAP but no later than 15 minutes after initiation and at least every hour thereafter. Assessment includes person's circulation/respiration, including vital signs
- Seclusion of persons over age 12 must be observed by trained staff every 15 minutes. At least one observation an hour conducted by nurse. Restrained persons must have continuous observation by trained staff. Secluded children age 12 and under must be monitored continuously by face-to-face observation or by direct observation through the seclusion window for first hour and at least every 15 minutes thereafter.

During Restraint and Seclusion (continued) • Monitoring physical/psychological well-being of R/S person by trained staff must include: respiratory and circulatory status; signs of injury; vital signs; skin integrity & any special requirements specified in facility policies. • During each period of S/R, person must be offered reasonable opportunities to drink & toilet as requested and restrained person must be offered opportunities for range of motion at least every 2 hours. • Documentation of observations & staff's name recorded at each observation.	
Release from Restraint and Seclusion • Release must occur as soon as person no longer an imminent danger to self/others, followed by debriefing to decrease risk of future S/R event & to provide support. • Review incident with person, giving opportunity to process the S/R event ASAP – at least within 24 hours of release. • Review incident with all staff involved and supervisors ASAP after the event and address: • Circumstances leading to the event, • Nature of de-escalation efforts and alternatives to seclusion and restraint attempted, • Staff response to the incident, ways to effectively support the person's coping in the future and avoid the need for future S/R. • Review documented for continuous performance improvement/ monitoring. Review findings forwarded to Oversight Committee, and within 2 working days, team meets to review circumstances preceding initiation, review the person's treatment plan and Personal Safety Plan to determine if changes are needed to prevent the further use of R/S. • Team will assess impact event had on person & provide counseling, services, or treatment needed as a result. Team must analyze person's record for patterns relating to conditions, events, or presence of other persons immediately before or upon onset of behavior warranting S/R. Team must review effectiveness of emergency intervention & develop more appropriate therapeutic interventions. • Seclusion and Restraint Oversight Committee must conduct timely reviews of each use of S/R and monitor patterns of use to assure least restrictive approaches are used to prevent/reduce frequency / duration of use.	
Reporting Restraints and Seclusion • All facilities must electronically report monthly S/R events to DCF - Webinar training to be scheduled when reporting process is finalized • All facilities subject to CoP's must report by telephone by next business day to CMS (written report to DCF) any death that occurs: • While a person is restrained or secluded; • Within 24 hours after release from R/S; or • Within one week after S/R, where it is reasonable to assume that use of the S/R contributed directly or indirectly to the person's death.	Not Applicable

Immunity (consult with your attorney)

Baker Act

- Any person who acts in good faith in compliance with the Baker Act is immune from civil or criminal liability for his or her actions in connection with the admission, diagnosis, treatment, or discharge of a person to or from a facility. However, this section does not relieve any person from liability if such person commits negligence. (394.459)
- No professional is required to accept persons for treatment of mental, emotional, or behavioral disorders. Such participation is voluntary (394.460)

Marchman Act

- A LEO acting in good faith pursuant to the Marchman Act protective custody provisions may not be held criminally or civilly liable for false imprisonment.
- All persons acting in good faith, reasonably, and without negligence in connection with the preparation of petitions, applications, certificates, or other documents or the apprehension, detention, discharge, examination, transportation or treatment under the Marchman Act shall be free from all liability, civil or criminal, by reason of such acts

Training Resources

Baker Act

http://myflfamilies.com/service-programs/substance-abuse/baker-act-manual

- Copy of Baker Act law (394, Part I, FS) and rules (65E-5, FAC)
- Baker Act forms – mandatory and recommended
- Selected forms in Spanish & Creole
- 2011 Baker Act Handbook
- Baker Act monitoring/survey instruments
- Frequently Asked Questions (FAQ's) on 20 subject areas
- List of all public and private receiving facilities throughout the state
- Mental Health Advance Directives
- Other relevant materials

Online Training www.bakeracttraining.org

- On demand - at your convenience
- Up-to-date material
- No fee
- Certificate of Achievement
- CEC's offered @ low cost

Courses Offered:

- Introduction to the Baker Act
- Emergency Medical Conditions & the Baker Act
- Law Enforcement & the Baker Act
- Long Term Care Facilities & the Baker Act
- Consent for Minors
- Rights of Persons in Mental Health Facilities
- Guardian Advocacy
- Suicide Prevention
- Why People Die by Suicide
- Trauma Series

Marchman Act

http://myflfamilies.com/service-programs/substance-abuse/marchman-act

Contents include:

2003 Marchman Act User Reference Guide includes among other issues:

- Statute & Rules
- History & Overview
- Marchman Act Model Forms
- Law Enforcement and Protective Custody
- Quick Reference Guide for Involuntary Provisions
- Flow Charts for Involuntary Provisions
- Admission & Treatment of Minors
- Where to Go for Help
- Marchman Act Pamphlet
- Substance Abuse Program Standards
- Common Licensing Standards

Marchman Act PowerPoint Presentation

Array of substance abuse related courses funded by DCF and offered through FADAA, FADAA@FADAA.org.

Contacts

Martha Lenderman
lendmar@verizon.net
727-541-7888

Joe Anson, MSW
Baker Act & Marchman Act Policy Director
Policy & Planning Section
DCF Substance Abuse & Mental Health Program Office
1317 Winewood Blvd, Bldg 6, #209
Tallahassee, FL 32399
850-717-4330
joe_anson@dcf.state.fl.us

Joel Armstrong
DCF Substance Abuse Program Office
1317 Winewood Blvd, Building 6 Rm. 313
Tallahassee, Fl. 32399-0700
850-717-4399
Joel_armstrong@dcf.state.fl.us]