

What the Clerk Can and Cannot Do

The Clerk can only receive a petition for Marchman or Baker Acts and process these in keeping with approved processes established by statute. It is up to the Court to evaluate the claim, grant or deny the petition and if granted, issue an order directing the Sheriff to take the individual in question to a receiving facility to do the evaluation and determine the appropriate course of action. It is important that individuals seeking this action realize the implications as well as the limitations of this Act when seeking assistance by this means. The Clerk cannot give legal advice or provide information to individuals not authorized as a party to the case.

What is the Marchman Act?

A Petition for Involuntary Assessment may be filed when there is good faith reason to believe an individual is substance-abuse impaired and because of that impairment, has lost the power of self-control with respect to substance use. Once a bed has been secured by the person petitioning for evaluation, the petition is filed with the Clerk of Court. Be sure to write down the name of the person you spoke with from the receiving facility.

The Sheriff will provide service to the individual in question and take him/her to the facility previously arranged by the petitioning individual. The facility will assess and stabilize the patient for a period not to exceed 5 days. If the individual re-offends within 10 days, the petitioner may repeat this process and proceed to the second phase Marchman Act for Involuntary Treatment. This second-phase action requires the petitioner to pay for the evaluation and treatment.

Adult facilities: Baycare (727-841-6430)

Juvenile Facilities: ACTS (813-933-4446) or Human Services Associates, Inc., Juvenile Assessment Center (407-875-3700 ext. 2220).

What the Clerk Can and Cannot Do

Baker and Marchman Act Information



Office of Doug Chorvat, Jr.
Hernando County Clerk of
Circuit Court & Comptroller

20 N. Main St.,
Brooksville, FL 34601
Phone 352-540-6366



What is a Baker Act?

Florida's Baker Act law is a means of providing individuals with emergency services and temporary detention for up to 72 hours for mental health examination pursuant to Florida Statute Chapter 394. The Baker Act DOES NOT provide for or guarantee long term placement for individuals. To be eligible for an involuntary examination under the Baker Act an individual must meet the following criteria:

There is reason to believe that he or she is mentally ill and because of his or her mental illness, the person has refused voluntary examination.

The person is unable to determine for himself or herself whether examination is necessary and without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself and such refusal could pose a threat of harm to his or her well-being.

There is a substantial likelihood that without care or treatment, the person will cause serious bodily harm to himself, herself or others in the near future as evidenced by recent behavior.

What the Baker Act Can Do

Your sworn Petition will be reviewed by the court. If the court believes, based on the evidence provided in the Petition, and/or after a hearing, that the named individual meets the above stated criteria, the Judge will enter an Order for law enforcement to pick up and transport the person to the nearest receiving facility. Springbrook handles all Baker Acts for Hernando County.

Law enforcement will make every attempt to take the person into custody and transport the person to a receiving facility. If the person cannot be located, law enforcement will hold the order for seven (7) days and continue attempts to take the person into custody.

A law enforcement officer may serve and execute an ex parte Order on any day of the week, at any time of the day or night; however the Order may only be implemented within the boundaries of Hernando County, Florida.

Designated receiving facilities must accept persons brought by law enforcement officers for involuntary examination.

Upon arrival at a receiving facility, a person must be examined without unnecessary delay by a clinical psychologist or a physician experienced in the diagnosis and treatment of mental and nervous disorders.

What the Baker Act Cannot Do

The Order for Involuntary Examination reflects that the legal criteria under Florida Statutes Chapter 394 has been met; however, the burden then shifts to the mental health experts to determine if the medical criteria exists to detain the person for more than 72 hours or release them earlier.

A person may not be detained in a facility for more than 72 hours. At the conclusion of this time period one (1) of the following must occur:

- The person must be released unless charged with a crime; or
- The person must be released; sometimes for outpatient treatment; or
- The person must be asked to give express and informed consent to voluntary placement; or
- A Petition for involuntary placement must be filed with the circuit court by the facility administrator. Under this alternative the person will continue to be detained in the Facility until the involuntary placement hearing can occur.

A person shall not be released by the receiving facility without the documented approval of a psychiatrist or licensed psychologist.

Unless the examined person authorizes the release of information under Federal Law to you, the Facility may not be able to discuss the diagnosis, treatment, or status of the person.

If someone has been charged with a crime, depending on the charge, a Baker Act cannot prevent a person from being held in jail. If a person has been charged with a serious crime they may be treated by the mental health unit at the county jail.

After the involuntary examination, if a person is deemed NOT to be a risk to themselves or others, the treatment facility MUST release the person.

What is the procedure for filing the Petition and Affidavit Seeking ExParte Order Requiring Involuntary Examination? (Baker Act)

A family member or interested person may fill out the petition and affidavit in the Clerk's Office. You will need to provide proper identification and have personally witnessed the individual's actions.

What happens after I file the Petition and Affidavit?

Your sworn affidavit will be reviewed by the court. If the court believes, based on the evidence provided in the petition and affidavit, the judge will enter an order for the sheriff to pick up and transport the person to the nearest receiving facility.

When will the order be served on the person?

The sheriff will make every attempt to take the person into custody and transport the person to a facility. If the person cannot be located by the sheriff, the sheriff will hold the order for seven (7) days and continue attempts to take the person into custody.

How long will the order hold the person in a facility?

[A person cannot be detained for more than 72 hours without further direction of the Court.](#)

What if long term placement is needed?

Arrangements for the care of the person after his/her release must be made with a private facility in preparation for his/her release from the facility. There is nothing the facility or the Clerk can do if the person is not found eligible to be detained longer than 72 hours. In very rare instances and in extreme cases, a petition may be filed by the receiving facility, a hearing held, and if recommended and approved by the Court, the receiving facility will make arrangements with a state institution for long term treatment.

Who can file a Baker Act?

The Petition may only be filed by any individual willing to swear in a Petition for Involuntary Examination that you have personally witnessed an individual causing harm to themselves or others. An "ex parte" Petition for an Involuntary Examination can be completed at the Clerk's Office. The term "ex parte" means that the court will consider the petition without first serving it on the person sought to be Baker Acted.

How will the court order be executed?

A law enforcement officer will transport an individual to a facility for examination if there is reason to believe that the individual's behavior meets statutory guidelines for involuntary examination.

What will happen then?

A physician, clinical psychologist, psychiatric nurse, licensed clinical social worker, licensed marriage and family therapist, or licensed mental health counselor may execute a certificate stating that he or she has observed behavior that meets the Baker Act criteria in the past 48 hours.

What is a Marchman Act?

A process established by Florida Statutes by which a person may be admitted for an involuntary evaluation to determine if they have, due to their impaired judgment, lost the power of self-control with respect to substance abuse and they pose a danger to themselves or another person.

What is the procedure for a Marchman Act?

This procedure is basically the same as the Baker Act but you must acquire a private-pay bed before the petition can be processed and the order for involuntary placement can be executed. The petition and order are different in their content.

IMPORTANT INFORMATION: All parts of Baker act and substance abuse records are confidential. Our policy prohibits us from giving information out over the phone concerning persons who have been placed through this process. Inquiries must be made in person and you must bring your picture ID. In all instances, only the petitioner and/or respondent, those with Power of Attorney, State Attorney, Public Defender or the attorney, after filing a notice of appearance, may see these records.

Is there a difference if the person is a minor, as with the Baker Act?

Yes. For these proceedings, an individual is considered a minor if they are 17 years of age or younger. Until there are facilities in Hernando County to treat minors for mental health, these individuals will be transported to a facility in another county. Individuals over 17 years of age are not considered minors for these types of proceedings, and will be treated the same as an adult.

Can I do this more than one time?

Yes. Anytime you feel that an individual is a danger to themselves or others, you may initiate these procedures.

Will I get to talk to the Judge?

No. The clerk will present the petition and report to the Judge for their review. If the judge finds that there is sufficient cause, he or she will enter an order directing the Hernando County Sheriff's Office to transport the person to the appropriate facility.

Will they know I did this?

Yes. The Sheriff's Office serves the person with a copy of the petition, "Report to Court", and the order entered by the judge. The mental health receiving facility is given the same copies and they become a part of the patient's records. If the patient requests to see their records, the facility must allow them access.

Will I be able to attend the hearing?

Yes. The facility will notify the family and/or the petitioner of the hearing.

Who can I call for more information?

For more information on filing a Baker or Marchman Act, call the Clerk's office at 352-540-6366 or visit the office located at 20 N. Main St., Room 247, Brooksville, FL 34601.