



# BAKER ACT AND SUBSTANCE ABUSE

## WHAT IS A BAKER ACT?

A process established by Florida Statutes by which a person, who due to their current mental state poses a danger to themselves or others, may be taken to a mental health receiving facility for an involuntary examination.

## HOW DO YOU BAKER ACT SOMEONE?

First, the person must have refused to go for help on their own. Second, they must be a Marion County resident. If these two conditions have been met, you must then go to a Baker Act Receiving facility and speak to a counselor. If the counselor feels that an evaluation is needed, they will give you a document called "Report to Court." You would then bring this document, along with a picture ID, to the Mental Health department of the Clerk's Office. The clerk will prepare a petition and you will be asked to take an oath, stating that all the information is correct. You will be asked to sign as the petitioner.

## 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 Marion County Sheriff's Office to transport the person to the appropriate facility.

## WHAT DOES THE ORDER PROVIDE?

The purpose of the order is to provide the sheriff's office the authority to take the person to a facility for an examination.

## WHAT IF I DON'T KNOW WHERE THE PERSON IS?

The sheriff's office will issue an alert to law enforcement officers. The order usually states that it is valid for ten days. You will be required to repeat the entire procedure, if the person cannot be located within that time.

## 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.

## WHAT HAPPENS ONCE AN INDIVIDUAL IS TAKEN TO THE FACILITY?

They are examined and a determination is made as to whether they need further treatment. The individual may be held for up to 72 hours at the facility. Then, one of three things must happen: 1) the facility must discharge the individual; 2) the facility must allow the individual to sign in voluntarily (if the individual is able to consent); or 3) the facility must file a Petition for Involuntary Placement, and request a hearing.

## WILL I BE ABLE TO ATTEND THE HEARING?

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

## WHAT HAPPENS AT THE HEARING?

Testimony will be taken from the facility staff, the doctor, the family of the patient and other interested parties. The

Public Defender's Office will be appointed to represent the patient and will also attend the hearing. The judge will make a decision based on the testimony given, whether to release the person, or hold them for further treatment. If the person is not competent to consent to treatment, a guardian advocate may be appointed. A guardian advocate is someone who discusses the treatment and medications with the doctor and consents to the treatment on the patient's behalf.

## WHAT IF THE PERSON IS A MINOR?

For these proceedings, an individual is considered a minor if they are 15 years of age or younger. These individuals will be transferred to a facility outside of Marion County until such time as there is a local treatment facility. Individuals over 15 years of age are not considered minors for these types of proceedings, and will be treated the same as an adult.

## 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 THIS?

This procedure is basically the same as the Baker Act. The petition and order are different in their content.

## 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 15 years of age or younger. Until there are facilities in Marion County to treat minors for substance abuse, these individuals will be transported to a facility in another county. Individuals over 15 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.

## IMPORTANT INFORMATION:

Some 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 some instances, only the petitioner and/or respondent, or their attorney, after filing a notice of appearance, may see these records.

To contact our office, please call or write to:

Marion County Clerk's Office  
Probate & Mental Health Department  
110 NW 1st Avenue  
Ocala, Florida 34475  
(352) 671-5658