

The Marchman Act

Juvenile & Adult Information Package for Self-Represented Litigants

Eleventh Judicial Circuit of Florida

Miami, Florida

Last Revised: 7/30/24



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GENERAL INFORMATION

Please read this General Information Packet thoroughly before taking any steps to file your case or represent yourself in Court. This is not intended as a substitute for legal advice from an attorney. Each case has its own particular set of circumstances, and an attorney may advise you of what is best for you in your individual situation. If you have questions or concerns regarding these forms, commentary, instructions and appendices, the use of these forms, or your legal rights, it is strongly recommended that you talk to an attorney. If you do not know an attorney, you may call the Florida Bar Lawyer Referral Service at 1-800-342-8011.

All instructions and forms distributed by the Clerk are provided as a public service to persons seeking to represent themselves in Court without the assistance of an attorney. These documents are meant to serve as a guide only, and to assist pro se (self-represented) litigants with their cases. Any person using these instructions and forms does so at his/her own risk, and the Clerk shall not be responsible for any losses incurred by any person in reliance on the instructions and forms.

NOTICE OF LIMITATION OF SERVICE PROVIDED:

THE PERSONNEL IN THE CLERK'S OFFICE ARE NOT ACTING AS YOUR LAWYER OR PROVIDING LEGAL ADVICE TO YOU. CLERK PERSONNEL ARE NOT ACTING ON BEHALF OF THE COURT OR ANY JUDGE. THE PRESIDING JUDGE IN YOUR CASE MAY REQUIRE AMENDMENT OF A FORM OR SUBSTITUTION OF A DIFFERENT FORM. THE JUDGE IS NOT REQUIRED TO GRANT THE RELIEF REQUESTED IN A FORM. THE PERSONNEL IN THE CLERK'S OFFICE CANNOT TELL YOU WHAT YOUR LEGAL RIGHTS OR REMEDIES ARE, REPRESENT YOU IN COURT, OR TELL YOU HOW TO TESTIFY IN COURT. IF ANOTHER PERSON INVOLVED IN YOUR CASE SEEKS ASSISTANCE FROM THE CLERK'S OFFICE THAT PERSON WILL BE GIVEN THE SAME TYPE OF ASSISTANCE THAT YOU RECEIVE.

IN ALL CASES, IT IS BEST TO CONSULT WITH YOUR OWN ATTORNEY. IF YOU DO NOT KNOW AN ATTORNEY, YOU MAY CALL THE FLORIDA BAR LAWYER REFERRAL SERVICE AT 1-800-342-8011.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Eleventh Judicial Circuit Court's ADA Coordinator, Lawson E. Thomas Courthouse Center, 175 N.W. 1st Avenue, Suite 2702, Miami, FL 33128, Telephone (305) 349-7175; TDD (305) 349-7174. Fax (305) 349-7355 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time is less than 7 days; if you are hearing or voice impaired call 711.

The Marchman Act

The Marchman Act is the name for a Florida statute enacted to help individuals who: (1) have lost the power of self-control over their substance abuse; (2) do not appreciate their own need for help and cannot make rational decisions regarding their care because of their substance abuse; or (3) have become a danger to themselves or others because of substance abuse.

Given the right circumstances, the Marchman Act can be an effective tool to compel an addict or alcoholic to engage in treatment when they refuse to do so voluntarily.

Under the Florida Marchman Act, a civil court can issue orders that require an impaired individual to comply with drug and alcohol assessment and treatment. Failure to comply with such civil court orders may result in legal consequences.

Definitions:

Petitioner – the person filing the petition and initiating the action.

Respondent – the alleged substance-abuse impaired person; the party this case is filed against.

General Magistrate – an officer of the court appointed to hear the case and oversee the process.

FREQUENTLY ASKED QUESTIONS

What the Marchman Act CAN do:

- Under the Marchman Act, an individual can be ordered by the court to have an involuntary assessment for substance abuse.
- If the assessment finds that the individual needs substance abuse services, after another hearing, the Court can order the individual to attend and complete treatment, which can be inpatient or outpatient depending on the assessing facility's recommendation. Note: The method of treatment is determined by the treatment facility.

What the Marchman Act CANNOT do:

- A Marchman Act assessment is NOT a forced detox.
- Currently, the substance abuse treatment facilities available to serve Marchman Act cases in Miami-Dade County are not "lockdown" facilities. If an individual who has been ordered to inpatient treatment decides to leave, the facility will not physically stop them. If the person leaves before completing treatment, the petitioner must inform the court and may file a Motion for Civil contempt. The Court can then hold a contempt hearing and may sanction the Respondent for failing to comply with the treatment order.
- The Marchman Act does not guarantee a treatment bed. The Court does not have the ability to find a bed for the Respondent or to directly send them into treatment from a hearing. Once a treatment order is granted, it is the Petitioner's responsibility to contact treatment providers and find a treatment program for the Respondent.
- The Marchman Act does not provide for payment of assessment or treatment services for substance abuse. Most service facilities provide payment assistance based on income, but the Petitioner will need to contact the facility in advance.
- An individual cannot be sent for substance abuse treatment at any correctional facility, jail, or prison through the Marchman Act.
- If the Respondent is in a mental health facility, the Marchman Act cannot be used to interfere with, or substitute for, the Respondent's mental health treatment.

- The Marchman Act cannot supersede or interfere with any other court cases the individual may have pending. For example, if the Respondent is charged with a crime or on probation, the Marchman Act will not interfere with the criminal case or allow the individual to avoid a probation violation. Similarly, if the Respondent is in jail, the Marchman Act will not take precedence over his/her criminal charge and cannot be used to send the Respondent to an out-of-jail treatment program.
- The Marchman Act cannot be used to locate missing persons or runaway children, nor can it be used solely for the purpose of making a child attend school, keep curfew, obey parents, etc.

How does the process get started?

- The process begins with filing a “Petition for Involuntary Treatment Services” with the Court. A form petition is available on the Court’s website or from the Clerk of Court.

Who can file a petition?

- For an adult Respondent, any adult who has personal knowledge of the individual’s substance abuse impairment may file the petition.
- In the case of a minor, the minor’s parent, legal guardian, legal custodian, or licensed service provider may file the petition.

How long do the Assessment and Treatment services take?

- An adult person may be held for a substance abuse assessment for up to 72 hours.
 - The respondent may be held longer if the hospital determines it medically necessary.
- A minor may be held for up to 72 hours with the assessment being initiated within the first 12 hours.
 - The minor may be held longer if the hospital determines it medically necessary.
- A person may be ordered to treatment for up to ninety (90) days.
 - Marchman Act treatment facilities are not “lockdown” entities, if an individual who has been ordered into treatment decides to leave, the center has no authority to stop them.

If additional time is needed for assessment or treatment, the facility providing the service must file for an extension.

What do I need to bring?

- Valid identification for notarization
- Any documentation in support of your petition.
- \$40 money order made payable to Miami-Dade Sheriff’s Office for service on the Respondent (if using the sheriff to serve notice). (This fee may be waived if the Petitioner qualifies under an Affidavit of Indigency. Please see the Clerk for more information.)

Petitioner must be present at all hearings and ensure that the Respondent has been personally served with the petition. Parents of a minor Respondent are required to participate in all aspects of treatment.

FILING INSTRUCTIONS

Step 1: Complete and file a Petition for Involuntary Treatment Services.

- Complete Form “SA-1” Petition for Involuntary Treatment Services, and file with the Clerk of Court. If the Respondent is a minor within 3 months of turning 18, you will have to wait until the Respondent turns 18 before filing under the adult procedures.
- **The form must be signed by the Petitioner in front of a Notary Public or Deputy Clerk as the form must be notarized.** Once the above form is completed and filed, the Clerk’s Office will schedule a hearing within ten (10) court working days.
- **Emergency procedure:**
 - If the Respondent is experiencing a substance abuse emergency, fill in the section of the petition marked EMERGENCY. The court may grant an emergency assessment order immediately.
 - If the court denies the emergency order, a hearing will still be set within ten (10) court working days to determine if an assessment can be ordered on a non-emergency basis.
- Before the hearing, the Respondent must be served with notice by either the Sheriff’s Office or a certified process server.
 - If you use the sheriff, the Clerk’s Office will forward a copy of the Petition and original Summons along with the Petitioner’s cashier’s check or money order via inter-office mail to the Miami-Dade County Sheriff’s Office for service of process. The Miami-Dade County Sheriff’s Office service fee is \$40.00, which must be included with the filing of the Petition; please make the money order or cashier’s check payable to Miami-Dade Sheriff’s Office. (This fee may be waived if the Petitioner qualifies under an Affidavit of Indigency. Please see the Clerk for more information.)
 - A private certified process server can be used in lieu of the Miami-Dade County Sheriff’s Office to effectuate service of process (for a fee) and can be useful in locating a hard-to-find person. The Clerk’s Office has a list of certified process servers, but they cannot suggest a particular process server. It is your responsibility to pay the necessary service fee, and if the Respondent has not been served, the hearing may be reset.

Step 2: First Hearing (Assessment or Treatment)

Marchman hearings are usually conducted before a General Magistrate. **Petitioner’s attendance is required.** You must appear at the hearing, on the date provided by the Clerk, unless told it has been reset.

- If the Respondent **has already been assessed**, (for example, if an emergency ex parte assessment order was granted), then the first hearing will be to determine whether a treatment order should be granted, and what treatment is appropriate. Please continue to the section below.
- If the Respondent **has not been assessed**, then the first hearing will be to determine whether or not to order an assessment.
 - If the assessment is ordered, the Respondent must go to be assessed. The assessment order will include instructions on where to complete the assessment. An instructional packet will also be provided to both parties following the hearing.
 - The Respondent must complete the assessment within the required time. It is your responsibility to confirm completion of the doctor’s assessment that includes a G.A.I.N. (Global Assessment of Individual Needs) Report.
 - If the Respondent’s location is known, a follow up hearing will be set to review the assessment and determine whether the Respondent should be ordered to undergo treatment.
 - If the Respondent’s location is unknown, the next hearing date will not be set until the Respondent has been assessed. The assessment order is valid for 90 days and it is Petitioner’s responsibility to notify the court when the assessment has been completed.

Step 3: Second Hearing (Treatment)

A hearing is usually conducted before a General Magistrate. **Petitioner's attendance is required.** You, therefore, should appear at the hearing date provided by the Clerk unless you are told the hearing has been reset. At this hearing, the Court either enters an Order of Involuntary Services or dismisses the petition. At this hearing, the Court will determine whether to order the Respondent for substance abuse treatment on an inpatient or outpatient basis.

- If treatment is ordered, the Order for Involuntary Services may direct the Sheriff to take the Respondent into custody and deliver him/her to the licensed service provider specified in the court order, or to the nearest appropriate licensed service provider, for involuntary treatment (section 397.697(1), Florida Statutes). If the Order is not enforced, the Petitioner is responsible to take further steps to seek enforcement of the Order, which may include written notification to the Court of what happened.
- The Court is not responsible for finding a licensed facility. All treatments are controlled by the South Florida Behavioral Health Network and must be obtained through the South Florida Behavioral Health Network. See contact information below. *Be advised, there are currently no inpatient facilities available for female minors in Miami-Dade County. Any female minor in need of inpatient treatment will have to locate a facility in another county.*

CONTACT INFORMATION

CLERK OF COURTS (ADULTS ONLY)

Dade County Courthouse
73 W Flagler St - Room 234 - Miami, FL 33130 - 305-349-7475
Hours: 9am-4pm (12-1 closed)
<https://www.miamidadeclerk.gov/clerk/mental-health-court.page>

CLERK OF COURTS (JUVENILE DIVISION)

Miami-Dade County Children's Courthouse
155 NW 3rd Street - 4th Floor - Miami, FL 33128 - 305-679-1600
Hours: 9am-4pm (12-1 closed)
<https://www.miamidadeclerk.gov/clerk/juvenile-court.page>

ASSESSMENT AND STABILIZATION CENTERS

Jackson Crisis
(Jackson Behavioral Health Hospital)
1695 NW 9th Ave – Miami, FL 33136
305-355-7000

Juvenile Addiction Receiving Facility (JARF)
Citrus Health Network
4175 W 20th Ave – Hialeah, FL 33012
305-825-0300

TREATMENT FACILITY LOCATION SERVICES

South Florida Behavioral Health Network (Thriving Minds)
7205 NW 19th Street - Suite 200 - Miami FL 33126
305-858-3335 or 866-833-7477 (ADULTS and MINORS)
<https://thrivingmind.org/>
<https://thrivingmind.org/get-help/substance-use>
<https://thrivingmind.org/crisis-support>
Email: information@thrivingmind.org

ADDITIONAL RESOURCES:

Mobile Response Team:
An outreach service that provides mobile crisis intervention and assessment for children and adults:
800-HELP-YOU (800-435-7968)

ADMINISTRATIVE OFFICE OF THE COURTS

What to expect during court hearings:
<https://help.flcourts.gov/Get-Started/Helpful-Videos/Videos-to-Assist-Litigants-Representing-Themselves-in-Court>

Information on Marchman and Baker Act:

<https://www.jud11.flcourts.org/Resource-Center/Substance-Abuse/Marchman-Petition>
<https://www.jud11.flcourts.org/Mental-Health>
<https://www.jud11.flcourts.org/About-the-Court/Court-Divisions/Unified-Childrens-Court>

Contact email: marchmaninfo@flcourts.org