

**Baker Act
&
Marchman Act**

Monroe County
January 2018

**Baker Act & Related Statutes
What the Baker Act is Not!!!**

Mental Illness Only

- Marchman Act, Chapter 397
- Developmental Disabilities, Chapter 393

Psychiatric – Not Medical

- Emergency Examination & Treatment of Incapacitated Persons Act, Chapter 401
- Federal EMTALA – Emergency Medical Treatment and Active Labor Act & state's Access to Emergency Services & Care, s.395.1041, F.S.

Intervention Alternatives

- Adult Protective Services, Chapter 415
- Guardianship, Chapter 744
- Advance Directives Act/Health Care Surrogate & Proxy, Chapter 765

Not a Discharge Destination

- Nursing Homes/Assisted Living Facilities

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**Baker Act
Who is Protected?**

- Voluntary and Involuntary
- Inpatient and Outpatient
- Children and Adults (including elders)
- Competent and Incapacitated
- Persons served at Publicly and Privately Funded Baker Act Receiving Facilities

Balances liberty rights of individuals with their safety and that of society

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Receiving Facilities

Unless designated by DCF, facilities are not permitted to hold or treat persons who refuse examination or who are unable to provide informed consent **except** as required under the federal EMTALA law.

Receiving Facility: Any public or private facility designated by DCF to receive and hold or refer involuntary patients under emergency conditions for psychiatric evaluation and to provide short-term treatment (excludes jails)

Facilities must:

- Provide onsite emergency reception, screening & inpatient treatment services 24 hours a day, 7 days a week, regardless of ability to pay
- "Accept" persons of all ages.

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Monroe County Baker Act Receiving Facilities

DePoo Hospital
1200 Kennedy Dr, Key West
305-294-5531

Guidance / Care Center
3000 41st Street Ocean, Marathon
305-434-7660

Transportation Plan

Persons on involuntary status will be taken by law enforcement to the nearest receiving facility. Any subsequent transfer of individuals due to age, medical condition, financial status, or choice of facility will be negotiated between facilities and will not require law enforcement resources. More detail on transportation on later slides.

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Voluntary Admissions

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Voluntary Admission

Adults:

- Have a mental illness as defined in the Baker Act
- Be competent to provide express and informed consent
- Be suitable for treatment

Minors:

- Have a mental illness
- Child's guardian applies by express and informed consent for minor's admission
- Judicial hearing conducted **in advance** of admission to confirm the voluntariness of the admission
- Be suitable for treatment

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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.
- **Excludes** developmental disabilities as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse.

Co-Existing Disorders?

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Express and Informed Consent

- Consent voluntarily given by a **competent** person
- After sufficient explanation of the subject matter involved
- For person to make a knowing and willful decision
- **Without any element of force, fraud, deceit, duress, or other form of constraint or coercion.**

Incompetent to Consent

- Person's judgment is so affected by a mental illness or a substance abuse impairment
- That the person lacks the capacity
- To make a **well-reasoned, willful and knowing decision**
- Concerning medical, mental health or substance abuse treatment.

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Voluntary Admission Selected Procedures

- Incapacitated with a guardian or health care surrogate/proxy who is currently making health decisions – must be involuntary.
- Notice of right to "request" release at time of admission.
- Certification of competence by physician within 24 hours. If not competent, release or transfer to involuntary status.
- A request for discharge or refusal of treatment – discharge within 24 hours or file placement petition with Clerk of Court.
- Petition for involuntary placement filed with circuit court within 2 court working days after request for discharge or refusal of treatment is made. Can be court ordered for up to 90 days of treatment.

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Involuntary Examination

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Involuntary Examination Criteria

Reason to believe person has a mental illness **and** because of mental illness, person has refused **or** is unable to determine whether examination is necessary,

and either:

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**

There is substantial likelihood that without treatment will cause in the near future serious bodily **harm** to self or others, as evidenced by recent behavior.

Must meet all criteria

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Behaviors to Look For

See handout

- Behaviors
- Hallucinations
- Self-Care Issues
- Feelings
- Suicidal Risks
- Elderly Issues
- Substance Abuse (co-existing with mental illness)

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Initiating Involuntary Examinations

Upon determination that a person appears to meet the criteria for involuntary examination, the examination may be initiated by any one of the following means:

1. **Court Order** – a circuit or county court may enter an ex parte order based on sworn testimony; or
2. A **mental health professional** (physician, psychologist, psychiatric nurse, mental health counselor, clinical social worker or marriage & family therapist) 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 their observations upon which that conclusion is based, or
3. A law enforcement officer shall take into custody a person who appears to meet the criteria and describe circumstances.

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Law Enforcement Initiation

- Law enforcement officer defined
- Observation or circumstances?
- Transportation to receiving facility
- Report of Law Enforcement Officer -- Form (3052a)

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Ex Parte Order

- Petition form
- Based on sworn testimony
- Filed with Clerk of the Court (Probate)
-- No fee charged
- Time limit for execution of order
- **When/how law enforcement can execute**
- Transportation to receiving facility (see Monroe Transportation Plan)

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Certificate of a MH Professional

- Examination within 48 hours
- Conducted by an authorized professional (physician, psychologist, social worker, mental health counselor, marriage & family therapist, or psychiatric nurse)
- Citing observations on which the professional's conclusion is based
- Observations must relate to the criteria
- Transportation to receiving facility (see Monroe Transportation Plan)
- Certificate of a MH Professional (3052b)

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Baker Act Involuntary Examinations

	<u>Monroe</u>	<u>State</u>
1999	470	75,945
2000	449	80,888
2001	455	91,468
2002	406	100,458
2003	518	104,600
2004	494	110,697
2005	469	122,206
2006	443	120,506
2007	459	122,454
2008	480	132,026
2009	469	136,120
2010	432	143,347
2011	465	150,466
2012	475	157,352
2013	484	171,744
2014	443	181,471
2015-16	524	194,354
Rate 1,000	7.1	9.8
Court	1.3%	1.9%
MHP	64.5%	47.3%
LEO	34.2%	50.9%

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Transportation And other Law Enforcement Requirements

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Transportation

- Why law enforcement?
- Which law enforcement agency?
- Mandated duty for all involuntary initiated by law enforcement, courts and MH professionals (except hospital transfers)
- Exceptions/Delegation of responsibility
- Nearest facility must accept (394, 395, and EMTALA)
 - Emergency medical conditions
 - Medical clearance
- Jail vs. receiving facility

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Transportation (continued)

- Facility at capacity?
- Security at facilities?
- Transfers from hospital ER's?
- Medical or insurance screening at ER?
- Right to Individual Dignity-- Procedures, facilities, vehicles, and restraining devices used for criminals not used with persons who have a mental illness, except for protection of the person or others

New Transportation Plans developed by by all counties as of 6/30/2017 designate "most appropriate" facility(s) for individuals to be taken under the Baker and Marchman Acts. In Monroe County, this is the nearest facility.

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Law Enforcement Requirements

Weapons Prohibited

Except as authorized by law or as authorized by the hospital administrator, it is unlawful to bring any firearms or deadly weapons into a hospital providing mental health services.

Paperwork Required

- Initiation of Involuntary Exam:
 - BA 52a (Law Enforcement) or
 - BA 52b (MH Professional) or
 - Ex Parte Order (Circuit Judge)

AND

- BA 3100 (Transportation to a Receiving Facility)

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Return After Escape from Receiving Facilities

Voluntary not meeting the criteria for involuntary placement, law enforcement not notified by facility.

Voluntary but meets the criteria for involuntary placement, CF-MH 3052b initiated and law enforcement requested to take person into custody and deliver to nearest receiving facility. Transfer of person, if appropriate, then arranged from facility to facility.

Involuntary examination status, within 72 hours of arrival at facility, meets criteria for involuntary placement, but prior to the Petition for Involuntary Placement being filed with the court. law enforcement given copy of original 3052 (a or b) and requested to take person into custody and deliver to nearest receiving facility. Transfer of the person, if appropriate, then arranged from facility to facility.

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Return of Persons After Escape

(continued)

- Petition for Involuntary Placement filed with court, law enforcement provided copy of petition (3032) and requested to return person to the facility from which the petition was filed.
- Under court's Order for Involuntary Placement (3008) and leaves facility without authorization, administrator authorizes search and the return of person. Administrator of facility may request law enforcement to search for and return person and provide copy of order (3008).
- Persons escaping from hospital ER's should be returned to the hospital for appropriate transfer under federal EMTALA law.

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Involuntary Examination Discharge or Release of Patients

Within 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 shall be filed. Court can enter order for up to 90 days of placement.

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Rights of Persons with Mental Illnesses

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Rights of Persons

394.459, FS and 65E-5.140, FAC

- Individual dignity
- Treatment
- Participation in treatment & discharge planning
- Express and informed consent
- Quality of treatment
- Communication & abuse reporting
- Care and custody of personal affects
- Voting in public elections
- Habeas corpus
- Separation of children from adults
- Sexual misconduct prohibited
- Florida Patient's Bill of Rights
- **Confidentiality**

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Confidentiality

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

- Baker Act
- Substance Abuse
- HIPAA (treatment, operations and payment exempted)
- 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.

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Confidentiality (continued)

Information from record can be released:

- Court order after good cause hearing? **Yes**
- Declaration of intent to harm – may release sufficient information to adequately warn person threatened – **Yes**
- Inform guardians of minors? **Yes**
- Testimony for criminal conviction? **No**
- Testimony for civil commitment? **Yes**
- Confessions of past crimes? **No**
- Missing Persons??

Any person, agency or entity receiving information from clinical record shall maintain confidentiality (exempt from public records)

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Marchman Act

The Florida Substance Abuse Impairment Act

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History of the Marchman Act

- Myers Act (396, FS)
- Drug Dependency Act (397, FS)
- Replaced with the Hal S. Marchman Alcohol & Other Drug Services Act of 1993 -- addresses the entire array of substance abuse impairment issues.
- Not just the substance abuse version of the Baker Act!!

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Definitions

Substance Abuse means:

- Use of any substance if such use is unlawful or
- if such use is detrimental to the user or to others, but is not unlawful.

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

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Marchman Involuntary Admission Criteria

- Good faith reason to believe person is substance abuse impaired **or has a co-occurring mental health disorder** and because of the impairment:
- Has lost power of self-control over substance abuse; **and**:
- Is in need of substance abuse services and, by reason of substance abuse impairment, his/her judgment has been so impaired he/she is incapable of appreciating the need for services and of making a rational decision in regard thereto. (Mere refusal to receive services is not evidence of lack of judgment), **or**
- Without care or treatment is likely to suffer **neglect** or refuse to care for self posing a real and present threat of substantial harm to his/her well-being not avoidable through the help of family, friends, or other services, **or** there is a substantial likelihood that the person has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, **physical harm** on self or others.

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Involuntary Admissions

Non-Court Involved Admissions:

- **Protective Custody-Law Enforcement**
- Emergency Admission - SA Professionals
- Alternative Involuntary Assessment for Minors – Parent or legal guardian

Court Involved Admissions:

- Involuntary Assessment & Stabilization
- Involuntary Treatment

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Involuntary Marchman Admissions

The appropriate facility pursuant to the Transportation Plan or the nearest receiving facility, **must provide** persons brought for involuntary admission by law enforcement officers, or an emergency medical transport service or a private transport company authorized by the county a **basic screening or triage sufficient to refer the person to the appropriate services.**

Person must be **admitted** when sufficient evidence exists that each of these applies:

- Person is substance abuse impaired
- Is least restrictive and appropriate setting
- Within licensed census
- Medical & behavioral condition can be safely managed, and is
- Within financial means of person

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Protective Custody

- Law enforcement may implement for adult or minor when involuntary admission criteria appears to be met.
- Who is brought to attention of a Law Enforcement Officer **or** is found in a public place.

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Protective Custody With Consent

Person may consent to LEO assistance to:

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

Whichever the Law Enforcement Officer determines is the most appropriate.

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Protective Custody Without Consent

- Law Enforcement Officer may take person to hospital, addiction receiving facility, or detox center, or
 - An adult may be taken to jail. Not an arrest and **no record** of detention or arrest can be made.
1. Jail must notify nearest appropriate licensed provider within 8 hours and shall arrange transport to provider with an available bed.
 2. Must be assessed by jail's attending physician without unnecessary delay but within 72-hours

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Protective Custody

Must be released by a qualified professional* when:

- The 72-hour period has elapsed;
- Client no longer meets the involuntary admission criteria, or
- Client has consented to remain voluntarily, or
- Petition for involuntary assessment or involuntary treatment has been initiated with Clerk of Court. Timely filing of petition authorizes retention of client pending further order of the court. Can be ordered to treatment for up to 90 days.

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Non-Discriminatory Services

- **Publicly funded** providers cannot deny, provided space and state resources, access to services based solely on inability to pay.
- 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.

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Confidentiality & Law Enforcement

Identity, diagnosis, prognosis, and service provision to any client is confidential. Response to requests for information can't reveal that person was ever a client.

Provider can release to LEO when related to client's commission of a crime on premises of the provider or against provider personnel or to a threat to commit such crime.

Release of information limited to:

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

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Confidentiality & Courts

Court may authorize release for criminal investigation or prosecution only if all the following are met:

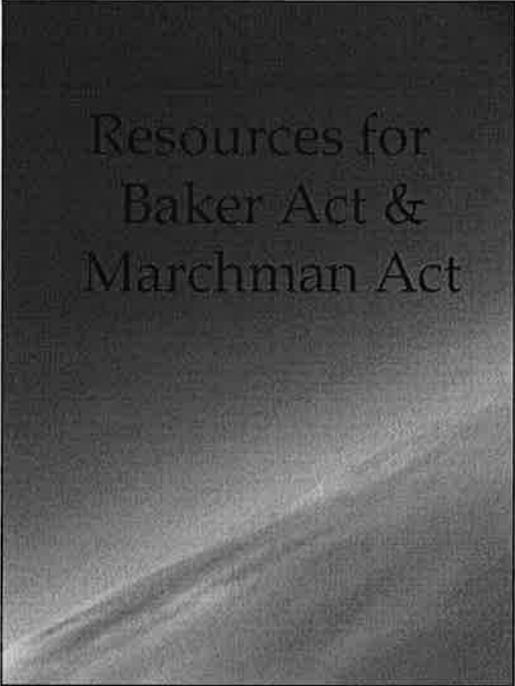
- Extremely serious crime
- Likelihood records will be of substantial value
- Other ways of obtaining information not available or effective.
- Potential injury to client & provider is outweighed by public interest and need for disclosure.

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Marchman Act Immunity

- A law enforcement officer acting in good faith pursuant to the Marchman Act 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.

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Resources for
Baker Act &
Marchman Act

Training Opportunities

Online Training

<http://www.dcf.state.fl.us/programs/samh/mentalhealth/training/bacourses.shtml>

- On demand-at your convenience
- No fee
- Certificate of Achievement

Currently available training includes:

- Baker Act Basics
- Emergency Medical Conditions & the Baker Act
- **Law Enforcement & the Baker Act**
- Long-term Care & the Baker Act
- Consent for Minors
- Rights in Mental Health Facilities
- Guardian Advocacy
- Suicide Prevention
- Why People Die by Suicide
- Trauma Series

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Department of Children & Families Website

<http://www.dcf.state.fl.us/mentalhealth/>

Click on **Baker Act**. Contents include:

- 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
- 2014 Baker Act Handbook
- Baker Act monitoring/survey instruments
- Frequently Asked Questions (FAQ's) on 21 subject areas (see Appendix Q)
- List of all public and private receiving facilities throughout the state
- Mental Health Advance Directives
- Other relevant materials

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Department of Children & Families Website

<http://www.dcf.state.fl.us/mentalhealth/sa/>

Click on **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

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Baker Act & Marchman Act

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Report of Law Enforcement Officer Initiating Involuntary Examination

State of Florida, County of _____, Florida

I, _____, am a law enforcement officer certified by the State of Florida, Florida.

In my opinion, _____ appears to meet the following criteria for involuntary examination:

1. I have reason to believe said person has a mental illness as defined by section 394.455, Florida Statutes: "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

AND because of the mental illness (check all that apply):

- a. Person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; **AND/OR**
- b. Person is unable to determine for himself/herself whether examination is necessary; **AND**

2. Either (check all that apply):

- a. Without care or treatment said person is likely to suffer from neglect or refuse to care for himself/herself, and such neglect or refusal poses a real and present threat of substantial harm to his/her well-being and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; **AND/OR,**
- b. There is substantial likelihood that without care or treatment the person will cause serious bodily harm to (check one or both) **self** **others** in the near future, as evidenced by recent behavior.

Circumstances supporting this opinion, including specific information about the person's behavior, threats and actions, and information offered by others:

Has the law enforcement officer initiating this examination completed a 40-hour Crisis Intervention Team (CIT) training program? Yes No

Was the examination initiated in the officer's capacity as a school resource officer? Yes No

Signature of Law Enforcement Officer _____ Date (mm/dd/yyyy) _____ Time am pm

Printed Name of Law Enforcement Officer _____ Full Name of Law Enforcement Agency (printed) _____

Badge or ID Number _____ Law Enforcement Case Number _____



Certificate of Professional Initiating Involuntary Examination
ALL SECTIONS OF THIS FORM MUST BE COMPLETED AND LEGIBLE (PLEASE PRINT)

I have personally examined (printed name of person) _____ at (time _____ am pm (time must be within the preceding 48 hours) on (date) _____ in _____ county and said person appears to meet the criteria for involuntary examination.

CHECK HERE if you are a physician certifying non-compliance with an involuntary outpatient placement order and you are initiating involuntary examination. (If so, person examination within preceding 48 hours is not required. However, please provide documentation of efforts to solicit compliance in Section IV on page 2 of this form.)

This is to certify that my professional license number is: _____ and I am a licensed (check one box):

- Psychiatrist
 Physician (but not a psychiatrist)
 Clinical Psychologist
 Psychiatric Nurse
 Clinical Social Worker
 Mental Health Counselor
 Marriage and Family Therapist
 Physician's Assistant

Section I: CRITERIA

1. There is reason to believe said person has a mental illness as defined in section 394.455, Florida Statutes.

"Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

Diagnosis of

Mental Illness is:

List all mental health diagnoses applicable to this person

DSM Code(s)
(if known)

AND because of the mental illness (check all that apply):

- a. Person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; **AND/OR**
 - b. Person is unable to determine for himself/herself whether examination is necessary; **AND**
2. Either (check all that apply):
- a. Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
 - b. There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to (check one or both) **self** **others** in the near future, as evidenced by recent behavior

Section II: SUPPORTING EVIDENCE

Observations supporting these criteria are (including evidence of recent behaviors related to criteria). Please include the person's behaviors and statements, including those specific to suicidal ideation, previous suicide attempts, homicidal ideation or self-injury.:

Certificate of Professional Initiating Involuntary Examination

Section III: Other Information

Other information, including source relied upon to reach this conclusion is as follows. If information is obtained from other persons, describe these sources (e.g., reports of family, friends, other mental health professionals or law enforcement officers, as well as medical or mental health records, etc.).

Section IV: NON-COMPLIANCE WITH INVOLUNTARY OUTPATIENT PLACEMENT ORDER

Complete this section if you are a physician who is documenting non-compliance with an involuntary outpatient placement order: This is to certify that I am a physician, as defined in Florida Statutes 394.455), F.S. and in my clinical judgment, the person has failed or has refused to comply with the treatment ordered by the court, and the following efforts have been made to solicit compliance with the treatment plan:

Section V: INFORMATION FOR LAW ENFORCEMENT

Provide identifying information (if known) if needed by law enforcement to find the person so he/she may be taken into custody for examination:

Age: _____ Male Female Race/ethnicity: _____

Other details (such as height, weight, hair color, clothing worn when last seen, where last seen):

If relevant, information such as access to weapon, recent violence or pending criminal charges:

This form must be transported with the person to the receiving facility to be retained in the clinical record. Copies may be retained by the initiating professional and by the law enforcement agency transporting the person to the receiving facility.

Section VI: SIGNATURE

Signature of Professional: _____ Date Signed _____ Time am pm

Printed Name of Professional

Phone Number (including area code)

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

IN RE: _____ CASE NO.: _____

Petition and Affidavit Seeking Ex Parte Order Requiring Involuntary Examination

I, _____, being duly sworn, am filing this sworn statement requesting a court order for the
Print Name of Petitioner
involuntary examination of _____ (hereinafter referred to as PERSON).
Print Name of Person

This petition and affidavit will be included in the PERSON's clinical record and may be viewed by the PERSON.

I understand that by filling out this form, the PERSON may be taken by law enforcement to a mental health facility for an examination.

I SWEAR that the answers to the following questions are given honestly, in good faith, and to the best of my knowledge.

1. a. I live at: (Print Your Full Residence Address and Phone Number) Phone: (_____) _____
Street Address: _____ City _____ ST _____ Zip _____
- b. I work as a: (Occupation) _____ Work Phone: (_____) _____
Work Street Address: _____ City _____ ST _____ Zip _____
- c. The PERSON lives at, or may be found at, the following address(es):
Street Address: _____ City _____
Street Address: _____ City _____
Street Address: _____ City _____

2. I have the following relationship with the PERSON: _____

3. (Check the one box that applies)

- a. I or a family member have or have not previously made allegations to law enforcement involving this PERSON on _____ (Date) such as domestic violence, trespassing, battery, child abuse or neglect, Baker Act, neighborhood disputes, etc. as described: _____

- b. This PERSON has or has not previously made allegations to law enforcement about me or my family on _____ (Date) such as domestic violence, trespassing, battery, child abuse or neglect, Baker Act, etc. as described: _____

CONTINUED OVER

Petition and Affidavit Seeking Ex Parte Order Requiring Involuntary Examination (Page 2)

4. (Check the one box that applies)

- a. I or a family member are not now, and have not in the past, been involved in a court case with the PERSON.
- b. I or a family member am now, or was, involved in a court case with the PERSON. This case is/was a

_____ in _____
Type of Case When

Explain: _____

5. I am on good terms with the PERSON at the present time. (Check one box) Yes No If "no", please explain:

6. I have known the PERSON for _____ (how long).

- a. The PERSON has only recently displayed unusual kinds of behavior.
- b. The PERSON has, over a period of time, always acted in a strange manner.
- c. The PERSON's behavior has developed over a period of time.

COMPLETE THE FOLLOWING ONLY IF THE SECTION APPLIES TO THIS CASE:

7. I have seen the following behavior, which causes me to believe that there is a good chance that the PERSON will cause serious bodily harm to himself/herself or others. On _____ at approximately _____ am pm,

I saw the PERSON: _____

8. Other similar behavior I have personally seen is as follows: _____

9. To my knowledge or belief, I do I do not believe these actions were a result of retardation, developmental disability, intoxication, or conditions resulting from antisocial behavior or substance abuse impairment.

CHECK AND/OR ANSWER APPLICABLE SECTIONS

- 10. a. I have attempted to get the PERSON to agree to seek assistance for a mental or emotional problem(s). I explained the purpose of the examination (describe when, who was present, and whether you or another person explained the need for the examination): _____

- b. I did not try to get the PERSON to agree to a voluntary examination because: _____

- c. The PERSON refused a voluntary examination because: _____

Petition and Affidavit Seeking Ex Parte Order Requiring Involuntary Examination (Page 3)

11. The following steps were taken to get the PERSON to go to a hospital for mental health care: _____

These steps did not work because: _____

12. I believe that the PERSON is unable to determine for himself/herself, why the examination is necessary because:

13. I believe that the PERSON has a mental illness which will keep the PERSON from being able to meet the ordinary demands of living because: _____

14. I believe that without care or treatment, the PERSON is likely to suffer from neglect or refuse to care for himself/ herself, because: _____

15. I believe that this lack of care or neglect will lead to the PERSON hurting himself or herself because:

16. Can family or close friends now provide enough care to avoid harm to the PERSON? Yes No, If not, why?

CONTINUED OVER

Petition and Affidavit Seeking Ex Parte Order Requiring Involuntary Examination (Page 4)

Provide the following identifying information about the person (if known) if it is determined necessary to take the person into custody for examination:

County of Residence: _____ Age: _____

Sex : Male Female Race: _____ Attach a picture of the PERSON if possible. Picture attached: No Yes

Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____

Does the PERSON have access to any weapons? No Yes If yes, describe: _____

Is the PERSON violent now? No Yes Has the person been violent in the recent past? No Yes If Yes, Describe: _____

Does the PERSON have any pending criminal charges against him/her? No Yes If yes, describe: _____

GUARDIANSHIP:

1) Does the PERSON have a legal guardian? No Yes

2) Is there a pending petition to determine the PERSON's capacity and for the appointment of a guardian? No Yes
If YES to either of the above, provide the name, address and phone number of the current or proposed guardian.

Name: _____ Phone: (_____) _____

Address: _____ City: _____ Zip: _____

PHYSICIAN: Name: _____ Phone: (_____) _____

MEDICATIONS: Provide name of medications if known, _____

CASE MANAGEMENT: Provide name and phone number of case manager or case management agency, if known. _____

I understand that this sworn statement is given under oath and will be treated as though it was made before a judge in a court of law. I understand that any information in this sworn statement which is not to the best of my knowledge and done in good faith may expose me to a penalty for perjury and other possible penalties under the statutes of the State of Florida.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Signature of Affiant/Petitioner: _____

SWORN TO AND SUBSCRIBED before me

OR

SWORN TO AND SUBSCRIBED before me

this _____ day of _____, _____
Day Month Year

this _____ day of _____, _____
Day Month Year

by _____ who is personally known
to me or presented _____ as identification.

Clerk of Circuit Court
_____ County, Florida

Notary Public - State of Florida

By: _____
Deputy Clerk

My Commission expires: Date _____

A copy of the petition(s) must be attached to an Ex Parte Order for Involuntary Examination and accompany the person to the nearest receiving facility.

**Transportation to Receiving Facility
This is a Mandatory Form**

Part I: General Information

The circumstances, under which (Name of Person) _____ was taken into custody are as follows (If this information was already completed on Report of Law Enforcement Officer, it does not have to be repeated here):

Time: _____ am pm _____ Date

Place or Facility Name:

Pick Up Address:

Family members or others present when person was taken into custody

Name	Address	Relationship	Phone Number
Next of Kin (if known)			

Indicate personal knowledge by family members and others about the person's condition.

Delivered to (Nearest Receiving Facility):

Basis for Custody: (Check one) Ex Parte Order Certificate of Professional Report of Law Enforcement Officer

Signature of Law Enforcement Officer

Date _____ am pm

Printed Name of Law Enforcement Officer

Full Name of Law Enforcement Agency

Badge or ID Number

Law Enforcement Case Number

CONTINUED OVER

Part II - Used When Law Enforcement Consigns Persons to Contract Transport or to Emergency Medical Personnel

If transport is used due to the medical condition of the person or due to a county-funded contract with a transport company, print the name of the company _____ which will transport the person to the nearest emergency room in the case of a medical emergency or, if not a medical emergency, to the nearest designated receiving facility _____ (specify facility to which person is to be taken)

The law enforcement agency and the transport service must agree that the continued presence of law enforcement personnel is not expected at the time of consignment to be necessary for the safety of the person or others.

I, _____ of the _____
Printed Name of Law Enforcement Officer Printed Name of Law Enforcement Agency

and

I, _____ of the _____
Printed Name of Medical Transport Service Representative Printed Name of Medical Transport Service

agree that the continued presence of the law enforcement agency is not expected to be necessary for the safety of

_____ or others. By affixing my legal signature and date/time of signing below, I understand that continued transporting of the person named above to a receiving facility is no longer the responsibility of law enforcement agency. The responsibility is assumed by the medical transport service in accordance with s. 394.462 (1), F.S.

Signature of Law Enforcement Officer Date Signed Time Signed _____ am pm

Signature of Representative of Medical Transport Service Date Signed Time Signed _____ am pm

The completed form must be delivered with the person to the receiving facility for inclusion in the clinical record. A copy may be retained by the law enforcement agency and by the medical transport service. The form is exempt from the provisions of s. 119.07(1), F.S.



Report of Law Enforcement Officer Initiating Protective Custody State of Florida, County of _____, Florida

I, _____, am a law enforcement officer certified by the State of Florida. I have good faith reason to believe that _____ appears to meet the following criteria for protective custody:

- He or she is substance abuse impaired or has a co-occurring mental health disorder and, because of such impairment or disorder:
- Has lost the power of self-control with respect to substance abuse; **and**
- Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that he or she is incapable of appreciating his or her need for such services and of making a rational decision in that regard, although mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services; **or**
- Without care or treatment, is likely to suffer from neglect or refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services, or there is substantial likelihood that the person has inflicted, or threatened to or attempted to inflict, or, unless admitted, is likely to inflict, physical harm on himself, herself, or another.

Circumstances under which the person was taken into custody and which support this opinion:

Signature of Law Enforcement Officer

Date (mm/dd/yyyy)

Time

am pm

Printed Name of Law Enforcement Officer

Full Name of Law Enforcement Agency

Badge or ID Number

Law Enforcement Case Number

Report of Law Enforcement Officer Initiating Protective Custody
(Page 2)

Transportation to Substance Abuse Provider

Location Found:	Taken To:
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Family members or others present when person was taken into custody:

Name #1	Relationship	Phone Number
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Address of Name #1

Name #2	Relationship	Phone Number
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Address of Name #2

Name #3	Relationship	Phone Number
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Address of Name #3

Name #4	Relationship	Phone Number
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Address of Name #4

Next of kin and contact information (if known):
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Indicate personal knowledge by family members and others about the person's condition:

This written report shall be included in the person's clinical record.

Baker Act Quick Reference Guide for Monroe County Law Enforcement Officers

SHOULD I OR SHOULDN'T I?

The **BAKER ACT** empowers law enforcement officers to initiate an involuntary evaluation of persons based on the following facts:

- They have a mental illness, and
- They are either a danger to themselves or to others, or
- Without treatment they are likely to suffer from neglect, which is potentially harmful.

Sometimes it's hard to know whether or not you should "Baker Act" someone. You want to be a responsible officer and do the right thing to protect individuals and those nearby, but you're not sure whether or not to take a person to jail or to initiate the Baker Act and take the person to a receiving facility.

There are three important key points for you to remember:

1. Your role is not to diagnose. However, if you have reason to believe that someone appears to have a mental illness, you can decide whether or not that person may be putting self or others in danger and meets the criteria for a complete evaluation.
2. You do not need to witness all of the behaviors personally. You can consider credible eyewitness accounts from others as you determine the need for further assessment.
3. Officers **must complete two forms** when initiating the Baker Act: Report of Law Enforcement Officer Initiating Involuntary Examination (CF-MH 3052a), and Transportation to Receiving Facility (CF-MH 3100). The Transportation form must also be completed when transporting a person under a Professional's Certificate or Court Order for a Baker Act examination.

TRANSPORTATION

DePoo Hospital

1200 Kennedy Dr, Key West
305-294-5531

Guidance / Care Center

3000 41st Street Ocean, Marathon
305-434-7660

BEHAVIORS TO LOOK FOR

Individuals with mental illnesses who may need further evaluation typically exhibit a combination of the following behaviors or indicators of their illness:

BEHAVIORS: rapid speech, flight of thought, no eye contact, quick movements, disconnected speech patterns, constantly moves or paces, can't concentrate, mood changes quickly and frequently from the highs to the lows, disorganized thoughts, disoriented to time or place, acts of violence, cutting self, combative / aggressive behavior, inappropriate dress or nudity.

HALLUCINATIONS: sees people who aren't there, hears voices telling them to hurt themselves or others, reports that the television is suggesting harm to others, turning the head as if listening to an unseen person.

SELF-CARE ISSUES: insomnia or increased sleep, has not eaten for days, not taking prescribed medications, home is in disarray, neglects household, property or personal hygiene—to the point of putting self/others at risk.

FEELINGS: low self esteem with feelings of hopelessness or helplessness, flat affect—not reacting with much feeling or interest.

SUICIDAL RISKS: has weapons or access to weapons, speaks about previous attempts, makes direct comments about dying or hurting self, evidence of previous attempts such as scars on the wrists.

ELDERLY ISSUES: wandering at night, leaving things on stove unattended, not eating or sleeping or caring for personal needs, unrealistic fears, uncontrollable anxiety, confusion, quantity and age of unused foods in home.

SUBSTANCE ABUSE: abuse of prescribed medications, use of alcohol or illegal substances while taking medications. (If substance abuse appears to be the only issue, the Marchman Act may be more appropriate)

Family Interaction with Law Enforcement

Calling 911

Having to call 911 is an extremely stressful situation. It is by definition an emergency. Not only do you have concern for the person about whom you are making the call, but also you want to make sure that you give law enforcement enough information so that they will be able to respond effectively and safely.

Try to control the volume of your voice. When you shout over the phone it is difficult for the 911 Operator to understand what you are saying. Certainly this is a very emotionally charged time, but if the Operator can only hear shouting, the information is not efficiently received. As calmly and clearly as possible, answer the Operator's questions, follow directions you are given, and tell the Operator the following:

1. Your name and address
2. The patient's name
3. Your relationship to the patient
4. That the patient has a mentally illness
5. Patient's diagnosis
6. Any medication being used
7. Has medication stopped? How long?
8. Describe what the patient is doing now.
9. Do you feel threatened?
10. Is there a history of violent acting out?
11. Does the patient hear voices?
12. Does the patient have fears?
13. Location of patient in house?
14. Are there weapons available? (Try to remove them)
15. Request a Crisis Intervention Trained (CIT) officer, if available

When Law Enforcement Arrives

Have all the lights in the house turned on, so that all occupants can be clearly visible to the arriving officers. Have nothing in your hands if you come out of the house to meet the officers. Do not run up to the officers. They have no idea who you are and anything you may carry can possibly be interpreted as a weapon. It is essential that the officers responding to your emergency call establish a comfort zone — knowing who the patient is and that you, who possibly may be also agitated, are not a threat. As calmly as possible, identify yourself. Tell the officers:

1. Who you are
2. Who you have called about
3. Your relationship to the patient
4. That the patient has a mental illness
5. What kind of mental illness it is
6. What medication is being taken
7. Has medication stopped? How long?
8. Is the patient violent or delusional (paranoid)?
9. History of suicide attempts?
10. The attending psychiatrist's or case manager's names, if any and their phone #'s

Officers responding to a 911 emergency call are very focused when they arrive on the scene. First, they will make the scene safe for you, the patient, and themselves. The more informed and at ease the officers are, the less likelihood that someone will get injured or that the situation will worsen. Spend all the time that is necessary answering all of the officers' questions. Answer directly and concisely. Offer any advice you deem helpful. Do not ramble. Officers tend to tune out persons who try to tell their entire life's story. After this is done, they will usually be able to deal with you and to answer any questions. Although it is difficult in times of crisis, being patient is essential.

* This information was provided courtesy of NAMI California