

IN THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA  
ADMINISTRATIVE ORDER NO. 6.0200(B)

**BAKER ACT AND MARCHMAN ACT PROCEDURES**

WHEREAS, the proper and efficient administration of justice in the Eighth Judicial Circuit requires that standards be adopted for the effective review and disposition, of petitions filed pursuant to Florida's Baker Act, chapter 394, Florida Statutes, and Florida's Marchman Act, chapter 397, Florida Statutes; and

WHEREAS, timely review and disposition of petitions submitted after business hours requires extraordinary cooperation by the Clerks of Court, law enforcement agencies, and judges of the Eighth Judicial Circuit; now

THEREFORE, it is

**ORDERED** that:

**1. Assignment to Divisions**

All petitions filed pursuant to the Baker Act and the Marchman Act shall be filed in the Mental Health Division in Alachua County, and in the Probate Divisions in Baker, Bradford, Gilchrist, Levy, and Union Counties.

**2. Appointment of Counsel**

a. **Marchman Act:** If the respondent named in a petition is not represented by counsel and the respondent requests counsel, or the court determines that counsel is necessary, the court shall appoint the Office of Criminal Conflict and Civil Regional Counsel, Region 1.

b. **Baker Act:** Unless the respondent named in a petition is otherwise represented by counsel, the public defender will be appointed to represent the respondent. If the public defender has a conflict of interest, the court shall appoint the Office of Criminal Conflict and Civil Regional Counsel, Region 1.

**3. Emergency Applications**

a. **Marchman Act:** If the Court determines that the respondent meets the criteria for involuntary assessment and stabilization, it shall enter an *ex parte* Order for Involuntary Assessment and Stabilization. § 397.675, Fla. Stat. If the Court determines that a

hearing is necessary prior to the entry of an Order of Involuntary Assessment and Stabilization, a hearing shall be set on the mental health docket and timely notice shall be given to all parties and counsel.

b. **Baker Act:** If the Court determines that the respondent meets the statutory criteria for involuntary examination, it shall enter an *ex parte* Order for Involuntary Examination. §394.463, Fla. Stat. If the Court determines that a hearing is necessary prior to the entry of an Order of Involuntary Examination, a hearing shall be set on the mental health docket and timely notice shall be given to all parties and counsel.

#### 4. After-hours Emergency Petitions

a. In Alachua County, after business hours and on weekends and holidays, a person may be taken into custody and delivered to the nearest receiving facility by one of two procedures. A law enforcement officer, as defined in section 943.10, Florida Statutes, can take a person into custody if that person appears to meet the statutory criteria for involuntary examination. If a law enforcement officer does not take a person into custody because the officer does not have sufficient evidence that the person appears to meet the criteria for involuntary examination under section 394.463, Florida Statutes, the person seeking the involuntary examination may file a petition for an *ex parte* involuntary examination order. If requested to do so, the law enforcement officer will provide a form of "Petition and Affidavit Seeking Ex Parte Order Requiring Involuntary Examination" and information about filing a petition. A form of Petition for Ex Parte Order and a form of Ex Parte Order shall be available on the Eighth Judicial Circuit's website, [www.circuit8.org](http://www.circuit8.org).

b. If the person seeking the involuntary examination completes the Petition for Ex Parte Order and wants to file the petition when the courthouse is closed, the law enforcement officer shall contact Meridian Behavioral Healthcare, Inc. ("Meridian") in Gainesville, Florida at (352) 374-5600. Meridian has agreed to designate appropriate employees to assist in reviewing these petitions after business hours. The officer shall read the petition to the designated Meridian employee. The Meridian employee will make a recommendation as to whether the petition should be filed when the courthouse is open or whether the petition should be deemed an emergency such that the on-call duty judge should be contacted.

c. If Meridian recommends that the petition appears to constitute an emergency such that the duty judge should be contacted, the law enforcement officer will then contact the duty judge and read the petition to the judge. The duty judge will determine whether to issue an

*ex parte* order, or not.

d. If the on-call duty judge decides to enter an *ex parte* order after business hours, the law enforcement officer shall call the on-call clerk of court, who shall go to the Alachua County Courthouse, Family and Civil Justice Center, to meet the petitioner and the law enforcement officer. The judge will direct the law enforcement officer to accompany the petitioner to the Alachua County Courthouse, Family and Civil Justice Center, and to stay at the courthouse with the petitioner until the judge makes a final determination as to whether to issue an *ex parte* order, or not.

e. Once the on-call clerk of court, the law enforcement officer, and the petitioner are present in the courthouse, the petitioner shall be placed under oath by the on-call clerk of court and the petitioner will then sign the petition. The on-call clerk of court shall then file the sworn petition. The on-call duty judge will review the petition, make a final determination as to whether or not to issue an *ex parte* order, and communicate that decision to the on-call clerk of court by telephone.

If the petition is granted and an *ex parte* order is issued, the on-call clerk of court shall make a certified copy of the court order, give the certified copy to the law enforcement officer and give a copy of the order to the petitioner. The law enforcement officer must then take into custody the person named in the order as the respondent and deliver, or cause to have delivered, the respondent to the nearest receiving facility for involuntary examination.

#### **5. Notice**

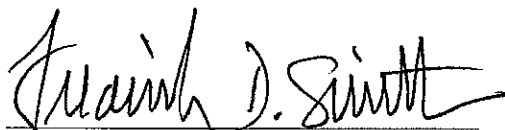
Timely notices of hearings in Baker Act and Marchman Act cases shall be given to all parties required by law to be given notice. Notice is not required for *ex parte* cases.

#### **6. Time Requirements for Conducting Hearings**

In calculating the time requirements of chapter 394 and chapter 397, Florida Statutes, days are computed as specified in chapter 394 and chapter 397, and where not specified in these statutes, in accordance with Rule 1.090, Florida Rules of Civil Procedure.

This order supersedes Administrative Order No. 6.0200(A), titled Mental Health Hearings in Baker and Marchman Act Cases, dated 13 November 2001.

**ORDERED** on 19 June 2009.



Frederick D. Smith, Chief Judge