

What Happens in Marchman Act Hearings?

By Joseph M. Considine, P.A.

In consultation with many clients through the years, I have helped them use Marchman Act hearings to get their loved ones assessed and treated for substance abuse. Marchman Act cases typically follow a set pattern through the court system.

You will have an attorney meet with you and other witnesses and the attorney will draft a sworn petition for both assessment and treatment. You will be asked by your attorney to give information as to the person's behavior, identification and location for the Marchman Act petitions. These petitions will be filed with the Clerk of Court.

What happens after the initial Marchman Act petition has been filed at the Clerk's office?

The Clerk sets the case for hearing within 10 days. The loved one must be served with the paperwork including the notice of hearing which indicates the date and time of the hearing. Usually it is required that there be personal service of the paperwork on the loved one before there can be a hearing so it is important that you work closely with your attorney to make sure your loved one gets served.

What happens at the Marchman Act Hearing?

If the loved one is indigent or a minor, he or she is entitled to have the representation of a court appointed attorney.

Testimony is given to the Judge at the Marchman Act hearing for involuntary assessment. You will bring to the hearing those several friends and family members who have firsthand knowledge of the loved one's condition. The Judge or Magistrate will want to know all that your witnesses have personally observed about the loved one which will lead the Judge to the conclusion that he or she needs to be assessed and then later needs treatment under the Marchman Act.

If the loved one meets the criteria for a Marchman Act assessment, the Judge signs an order granting the petition and setting the appointment for assessment. Sometimes, usually at Drug Court, the Judge or Magistrate orders the assessment to take place at the time of the hearing. The assessment can take up to an hour and is done by an addiction professional, many times a psychologist contracted with by the courts. When the matter is heard by the Magistrate, the assessment can take up to several days especially if the family can afford to place the loved one in a treatment facility.

After a Marchman Act Hearing

If the loved one was served but is not at the Marchman Act hearing or does not show up for the court ordered assessment appointment, the Judge or Magistrate will have the sheriff pick up the loved one and transport him or her to the assessment location.

If the Marchman Act assessment indicates that treatment is needed, either at the same assessment hearing or a subsequent hearing for treatment, the Judge or Magistrate may order a minimum of 60 days treatment that the loved one must complete. The treatment facility can later ask the Court for more time than 60 days.

Treatment facilities are not locked down, hence, there is no way to prevent the loved one from leaving. If your loved one decides to leave the facility, the Court will be made aware and a status conference hearing may be set. If the loved one fails to appear at this hearing, a show cause hearing may be set. If the loved one does not appear for the show cause hearing, the court may find the loved one in contempt of court and ordered to treatment again or otherwise sanctioned.

If you are ready to help your loved one overcome substance abuse addiction and seek an assessment and treatment under the Marchman Act, contact me for a consultation immediately.

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