

Who May file a Petition for Involuntary Substance Abuse Assessment or Treatment?

By Joseph M. Considine, P.A.

As family members begin to understand the seriousness of their loved ones' substance abuse. And realize that all the talking, pleading, and yelling, has not gotten your loved one clean or sober, the family usually experiences a great deal of fear and uncertainty as to what to do next. As I've previously discussed, the Marchman Act can help you get help for substance abuse even when your loved one does not want to voluntarily get help for substance abuse.

You may ask the court to intervene and get help for your loved one's substance abuse by using the Marchman Act. Chapter 397 of the Florida Statutes. In this Article I will break down who can file a Marchman Act petition in the Florida courts.

If the loved one is an adult (over 18 years old), the petition may be filed by the following:

- A.) a spouse
- B.) a guardian
- C.) any relative
- D.) a private mental health practitioner
- E.) a director of a licensed service provider or designee (with power of attorney)
- F.) any three adults with personal knowledge of the person's substance abuse

If the loved one is a minor, the Marchman Act petition may be filed by:

- A.) a parent
- B.) a legal guardian or custodian
- C.) a licensed service provider

Another common question is whether you need a lawyer to file a Marchman Act proceeding. While the answer is technically, "No," it sure makes it easier to have the services of an attorney to navigate you through the court rules and who is familiar with the Marchman Act law and the rules of evidence as there will be a hearing before a Judge or a Magistrate. The lawyer will know what questions to ask to bring out the evidence needed for the Judge to make a proper decision. (Most times these hearings are conducted by Magistrates although the Drug Court is heard by Judges.)

If you would like to discuss filing a Marchman Act petition, please contact me for a confidential consultation.