

# FLORIDA'S MARCHMAN ACT TO SERVE AS MODEL FOR COUNTRY'S OPIOID EPIDEMIC?

By Joe Considine, Esq.

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The opioid epidemic has gripped the attention of the nation and we are increasingly hearing calls for drastic action. Several states have declared a public health emergency. Unfortunately, for Florida residents, there is a concern about how tourism will be affected by such a declaration.

Respected veteran New York Times columnist, David Brooks, wrote that the opioid epidemic requires that we confront it as the scourge that it is.

According to Mr. Brooks, there are roughly 2.5 million Americans addicted to opioids. Between 1999 and 2015, fatal overdoses soared from 8,200 annually to 33,000. In the last two years, more Americans died of opiate addiction than died in the entire Vietnam War.

We are feeling it locally as well. The Palm Beach Post reported this week the staggering increase in the number of overdose deaths. “Every 15 hours last year, someone died of an opioid overdose in Palm Beach County, nearly double the rate of murders and fatal car crashes. The 590 opioid overdose deaths in 2016, an all-time high for the county, are nearly twice as many as the year before, according to the Post’s analysis of records from the Palm Beach County Medical Examiner’s Office.

“That’s just a phenomenal number,” said Dr. Michael Bell, the Palm Beach County medical examiner. “I don’t see any stop.”

That is the problem. Treatment – critical to recovery – is lacking. But as David Brooks pointed out, 90% of those with opioid disorders do not get treatment. Of those that do, “something like half of all sufferers drop out of treatment within a few months”.

Brooks concluded: “It might be worth thinking about involuntary commitment too.”

Florida’s Marchman Act may serve as the model for the country to address the issue of involuntary commitment in a healthy and constitutional way.

Dr. Sally Satel, psychiatrist and lecturer at Yale University School of Medicine who has treated people addicted to heroin for a quarter century, recently wrote an article about the opioid epidemic for the *The Wall Street Journal*:

“I speak from long experience when I say that few heavy users can simply take a medication and embark on a path to recovery. It often requires a healthy dose of benign paternalism and, in some cases, involuntary care through civil commitment.”

Studies by UCLA and the National Institute of Mental Health in the 1990s and later studies which were published in the *American Journal of Addictions* (Use of Coercion in Addiction Treatment, January-February 2008) have strongly suggested that court sanctioned treatment is at least as effective, if not more effective than voluntary treatment, which is not court ordered.

Florida’s Marchman Act provides the legal process for involuntary commitment for substance abuse. The State of Florida has created a law which is both sane and constitutional to help substance impaired individuals and individuals with psychiatric problems. The Hal S. Marchman Act was the first law of its kind in the country to get substance abusers into treatment via the courts. **The law applies to Florida residents and non-Florida residents who are in Florida however briefly.** Many treatment professionals around the country bemoan the lack of such a law in



their home states. Florida’s Baker Act provides for the involuntary commitment of individuals with psychiatric issues who are an imminent danger to themselves or others.

The Marchman Act allows family members or friends to obtain court orders which can keep the addicted loved one in a structured environment for up to nine (9) months. The hope is that while in a safe and caring treatment facility for this lengthy period of time, the former abuser can acquire enough skills coupled with good nutrition, rest, medical attention, to navigate life without returning to substance abuse. This happens with time. The Marchman Act gives that time to the substance abuser.

United States Surgeon General Vivek Murthy and mental health professionals tell us that addiction is a disease of the brain. The addict’s dopamine receptors are so highly and persistently stimulated by the use of substances that they stunt the executive decision making function of the prefrontal cortex (the part that tells the addict to stop using).

It can take 12-18 months of abstinence for the creation of healthy neuropathways and for dopamine receptors to “quiet down” so that the usual pleasures of life – a beautiful sunset, a baby cooing, exercise, and tasty food – are satisfying.

In my law practice, I see the effects of court ordered moderate and longer term treatment upon individual substance abusers who wanted no part of treatment and had to be compelled to treatment by the court. In many instances, these people know their lives are a mess and they do not like what they are doing to themselves but they could not imagine life without substances - their best friend.

Often, in many instances, we see the person weeks later with a much healthier attitude and appearance than the person we first dragged into court. They are grateful that their families stood up for them.

Also important is addressing family issues, such as enmeshment and codependency. Some family members will love the substance abuser right into a grave. Family members worry that the addict will be upset with them for taking action to save the addict’s lives. In some instances, family members think that the addict can be reasoned with to go to treatment. Unfortunately, many addicts do further damage to themselves and some even die while concerned family members take the time with trying “to reason with” or deal with their fear of “upsetting the addict”.

These concerned friends and family need to know that the executive decision making part of the brain of the addict is not working and that the family member/friend needs to act in the best interest of the substance abuser by having them court ordered to treatment. They also need to know that once the addict is in treatment for a period of time, in many cases, the addict is relieved and grateful that the loved ones had the courage to act on their behalf.

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Healthy brain functioning take many months to develop. Hence, the traditional 28 days of treatment is insufficient. Long term treatment allows for the creation of healthy neuropathways that enhance the abuser's chances for long term sobriety and allows for the dopamine receptors to, in essence, "calm down".

We must re-evaluate the belief that no one gets sober until and unless they want to. This belief has to be scrutinized especially in the context of the staggering number of deaths brought about by the opioid epidemic. Can we afford to wait for the addict to want to get clean? This new thinking is supported by science.

The country needs laws such as the Marchman Act which permits the court to place a substance abuser under varying levels of structure and care for up to nine months. Involuntary commitment via Florida's Marchman Act is a vital and necessary tool in the fight against the opioid epidemic.

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*Joe grew up and lives in West Palm Beach, has three adult children and loves mountain biking.*

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