

# FLORIDA'S MARCHMAN ACT MAKES IT EASIER TO GET LOVED ONES HELP

By Joseph M. Considine, P.A.

It is not news to anyone who reads The Sober World that we have a drug epidemic of monstrous proportions in this country. In Palm Beach County, Florida alone, emergency medical services personnel advised recently that there are between five to eight overdose deaths per week from heroin. Families, therapists, treatment professionals, clinicians, technicians and anyone affected by addiction need to know all the tools at their disposal to get assistance to the substance impaired individual. The State of Florida has a history of being proactive in some instances in terms of getting help to substance impaired individuals, which is especially needed at this time in our state. In 1993 Florida enacted the Hal S. Marchman Act, the first law of its kind in the country to get substance abusers into treatment via the courts. Many treatment professionals around the country bemoan the lack of such a law in their home states. Studies by UCLA and NIMH have demonstrated that court sanctioned treatment is more effective than treatment which is not court ordered. The Marchman Act provides leverage to the family of the alcoholic/addict to stop the destructive behavior and require that the individual go to treatment for a significant period of time or go to jail for violating the court's order for treatment. Not surprisingly, most addicts would prefer the comfy confines of a treatment facility to those of a jail cell.

Effective July 1, 2016, the Legislature made changes to Florida's Marchman Act which makes it easier to get help for the substance impaired individual. Now, a single, unrelated adult (such as a friend or colleague) can petition the court for treatment services for the addict/alcoholic instead of requiring three unrelated individuals to file the petition for assessment or treatment. Sometimes families are terribly enmeshed with their addict/alcoholic and cannot or will not take the necessary action to intervene. The new changes make it easier for impaired individuals to get the needed help who do not have family members nearby or whose family either will not or cannot become involved.

The Marchman Act now makes it clear that an individual with a "co-occurring mental health disorder" can be ordered to treatment. As a lawyer practicing in this area of the law throughout Florida, many cases in my office have a significant co-occurring mental health disorder such as a mood disorder (bipolarity and depression, most typically). The revised law is very helpful to families of a loved one who suffers with a mental illness and substance abuse. Sometimes the substance abuse is a way of self-medicating and not the major issue.

The revised Act now increases the initial time for treatment from 60 days to 90 days. Many times the family wants to extend the treatment order beyond the initial residential setting to allow for intensive outpatient treatment with a sober living component and then later, a further step down to outpatient treatment and a sober living environment. All of these modalities are permitted under the Marchman Act which presumably allows with the use of extensions of the treatment order, for an individual to remain under an order for in excess of six months.

The Marchman Act typically involves two steps - assessment and treatment. Assessment takes place by a qualified professional and must be done within 72 hours, presumably from the time the individual arrives at the facility for the assessment. During the assessment period, the individual is to be held by the facility for five days unless the family has filed the petition for treatment. Our office's practice is to always initially file the treatment petition with the assessment petition so that the facility can legally hold the individual beyond the initial five days.

The changes to the Act now require that a treatment services

hearing occur within five (5) days after the petition for treatment services is filed; hence, this is a rapid process. This change has caused a great deal of strain on the Clerks' office in terms of scheduling but so far they are doing a good job complying with the statute.

The revised Act makes it a bit more difficult to have an order for treatment services entered when the person has not previously failed at treatment. However, I have not yet seen that used as a defense to a Marchman Act proceeding.

The changes to the law make it clearer that when the impaired individual has the resources to pay for treatment that he or she should pay or make the necessary arrangements with his or her insurer to pay for it.

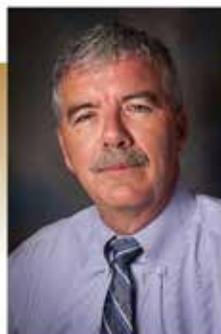
More and more people are wisely using the Marchman Act to get the help needed for their loved ones.

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of using the Marchman Act and refer  
families to Joseph M. Considine



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