

Baker Act

What is a Baker Act Proceeding?

Florida's Baker Act law is a means of providing individuals with emergency services and temporary detention for up to **72 hours** for mental health examination pursuant to Florida Statute Chapter 394. The Baker Act **DOES NOT** guarantee long term placement for individuals.

To be eligible for an involuntary examination under the Baker Act an individual must meet the following criteria:

1. There is reason to believe that he or she is mentally ill and because of his or her mental illness, the person has refused voluntary examination.
2. The person is unable to determine for himself or herself whether examination is necessary and without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself and such refusal could pose a threat of harm to his or her well being.
3. There is a substantial likelihood that without care or treatment, the person will cause serious bodily harm to himself, herself or others in the near future as evidenced by recent behavior.

Who Can File a Petition for a Baker Act Examination?

The Petition may only be filed by:

- a. Any individual willing to swear in a Petition for Involuntary Examination that you have personally witnessed an individual causing harm to themselves or others.* An "ex parte" Petition for an Involuntary Examination can be completed at the Clerk's Office. The term "ex parte" means that the court will consider the petition without first serving it on the person sought to be Baker Acted. However the Court may upon review of the ex parte Petition elect to schedule a subsequent hearing and give notice to the person sought to be Baker Acted.
- b. A law enforcement officer may transport an individual to a facility for examination if there is reason to believe that the individual's behavior meets statutory guidelines for involuntary examination.
- c. A physician, clinical psychologist, psychiatric nurse, licensed clinical social worker, licensed marriage and family therapist, or licensed mental health counselor may execute a certificate stating that he or she has observed behavior that meets the Baker Act criteria in the past 48 hours.

Ex Parte Baker Act Petitions can be filed at the following locations:

In Case Of Emergency Call 9-1-1

Main Courthouse

205 North Dixie Highway
West Palm Beach, FL, 33401
561-355-2040
Monday-Friday: 8:30am-5:00pm

South County Courthouse

200 W. Atlantic Avenue
Delray Beach, FL 33444
561-274-1530
Monday-Friday: 8:30am-5:00pm

North County Courthouse

3188 PGA Blvd.
Palm Beach Gardens, FL 33410
561-624-6608
Monday-Friday: 8:30am-5:00pm

West County Courthouse

38844 SR 80
Belle Glade, FL 33430
561-996-4843
Monday-Friday: 8:30am-5:00pm

**THE BAKER ACT IS FOR CRISIS INTERVENTION.
IT DOES NOT GUARANTEE LONG TERM
PLACEMENT FOR INDIVIDUALS.**

*If you are a legal guardian of the person, health care surrogate, or hold a health care proxy for the person sought to be Baker Acted, please attach a copy to your Petition.

**If the person has health insurance coverage that includes mental health care please report that on your Petition because if treatment is necessary they may be forwarded to a private treatment facility.

Important Information

What the Baker Act CAN DO:

- Your sworn Petition will be reviewed by the court. If the court believes, based on the evidence provided in the Petition, and/or after a hearing, that the named individual meets the above stated criteria, the Judge will enter an Order for law enforcement to pick up and transport the person to the nearest receiving facility. At this time there are only 2 receiving facilities in Palm Beach County: Oakwood Center and South County Mental Health.
- Law enforcement will make every attempt to take the person into custody and transport the person to a receiving facility. If the person cannot be located, law enforcement will hold the order for seven (7) days and continue attempts to take the person into custody.
- A law enforcement officer may serve and execute an ex parte Order on any day of the week, at any time of the day or night and may use such reasonable physical force as is necessary to gain entry to take custody of the person. However the Order may only be implemented within the boundaries of Palm Beach County, Florida.
- Designated receiving facilities must accept persons brought by law enforcement officers for involuntary examination.
- Upon arrival at a receiving facility, a person must be examined without unnecessary delay by a clinical psychologist or a physician experienced in the diagnosis and treatment of mental and nervous disorders.

What the Baker Act CANNOT DO:

- The Order for Involuntary Examination reflects that the legal criteria under Florida Statutes Chapter 394 has been met; however, the burden then shifts to the mental health experts to determine if the medical criteria exists to detain the person for more than 72 hours or release them earlier.
- A person may not be detained in a facility for more than 72 hours, at the conclusion of this time period one (1) of the following must occur:
 - **The person must be released unless charged with a crime; or**
 - **The person must be released; sometimes for outpatient treatment; or**
 - **The person must be asked to give express and informed consent to voluntary placement; or**
 - **A Petition for involuntary placement must be filed with the circuit court by the facility administrator. Under this alternative the person will continue to be detained in the Facility until the involuntary placement hearing can occur.**
- A person shall not be released by the receiving facility without the documented approval of a psychiatrist or licensed psychologist.
- **Unless the examined person authorizes the release of information under Federal Law to you, the Facility may not be able to discuss the diagnosis, treatment, or status of the person.**
- If someone has been charged with a crime, depending on the charge, a Baker Act cannot prevent a person from being held in jail. If a person has been charged with a serious crime they may be treated by the mental health unit at the county jail.
- After the involuntary examination, if a person is deemed NOT to be a risk to themselves or others, the treatment facility MUST release the person.

Fifteenth Judicial Circuit
(561) 355-2431
www.15thcircuit.com

For Social Service Referrals:
Florida 2-1-1 or 561-383-1111
<http://211palmbeach.org>