

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [HB 447](#)

**TITLE:** Pub. Rec. and Meetings/Mental Health and Substance Abuse

**SPONSOR(S):** Maney

**COMPANION BILL:** [SB 876](#) (Gaetz)

**LINKED BILLS:** None

**RELATED BILLS:** [SB 876](#) (Gaetz)

### Committee References

[Human Services](#)

17 Y, 0 N

[Judiciary](#)

[Government Operations](#)

[Health & Human Services](#)

## SUMMARY

### Effect of the Bill:

The bill expands current public records exemptions to make certain information filed with or by a court under the Baker Act and Marchman Act confidential. The bill also makes all hearings under the Baker Act and under parts IV and V of the Marchman Act confidential, absent a judicial finding of good cause or the respondent's consent.

The bill adds service providers to the list of individuals to whom the clerk of court may disclose confidential and exempt pleadings and other documents. The bill also authorizes the court to use the respondent's name to schedule and adjudicate cases.

The bill makes the public records and public meetings exemptions subject to the Open Government Sunset Review Act and states that the exemption shall be repealed on October 2, 2031, unless reenacted by the Legislature.

### Fiscal or Economic Impact:

The bill has an indeterminate, insignificant negative fiscal impact on the State Courts Systems.

### Extraordinary Vote Required for Passage:

The bill requires a two-thirds vote of the members present and voting in both houses of the Legislature for final passage.

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## ANALYSIS

### EFFECT OF THE BILL:

#### Public Records and Meetings Exemptions under Baker Act and Marchman Act Proceedings

##### [Public Meetings Exemptions](#)

Currently, hearings for proceedings under the [Baker Act](#) and [Marchman Act](#) are not confidential and are open to the public. The bill makes all hearings under the Baker Act and voluntary and involuntary admissions hearings under the Marchman Act confidential and closed to the public, absent the respondent's consent or a finding of good cause by a judge or an administrative law judge<sup>1</sup>, if applicable, protecting the medical privacy of individuals receiving services under the Baker or Marchman Acts and reducing stigma. (Sections [1](#) and [2](#))

##### [Public Records Exemptions](#)

<sup>1</sup> Under the Baker Act, an administrative law judge presides over hearings for petitions for continue involuntary services for patients being treated at a state mental health treatment facility.

**STORAGE NAME:** h0447a.HSS

**DATE:** 1/14/2026

Current law exempts certain information from public records filed with the courts under the Baker Act and Marchman Act. The bill expands the current public records [exemptions for Baker Act petitions](#) for voluntary or involuntary admissions to include a respondent's name, at hearing or on appeal, all applications for voluntary and involuntary admission for such applications, and admissions for mental health examinations. The bill also expands the public records [exemptions for Marchman Act petitions](#) for involuntary assessment and stabilization to include voluntary assessments and to require the respondent's name, at trial and on appeal, and all applications for substance abuse treatment or assessment and stabilizations to be exempt from public record. (Sections [1](#) and [2](#))

Under current law, the clerk of court may disclose confidential and exempt pleadings and other documents to certain individuals and entities under the Baker and Marchman Acts, including the respondent's treating health care practitioner.<sup>2</sup> However, the courts may not disclosure information to the service provider treating the respondent for mental health or substance abuse issues. The bill adds service providers to the list of individuals and entities to whom the clerk of court may disclose confidential and exempt pleadings and other documents. (Sections [1](#) and [2](#))

The clerk of court is prohibited from publishing personal identifying information on a court docket or in a publicly accessible file under both the Baker Act and Marchman Act. The bill maintains the current prohibition against a clerk of court publishing personal identifying information, but creates a narrow exception to allow the courts to use a respondent's name to schedule and adjudicate cases. (Sections [1](#) and [2](#))

Public records exemptions under the Baker Act and Marchman Act apply to all documents filed with the courts before, on, or after July 1, 2019, and July 1, 2017, respectively. Current law does not expressly apply the exemptions to pending or filed appeals. The bill makes the exemptions apply to appeals pending or filed on or after July 1, 2026. (Sections [1](#) and [2](#))

The bill provides public necessity statements for the public meetings and public records exemptions, as required by the State Constitution, specifying that the exemptions are necessary to protect sensitive and personal information and the release of such information could cause unwarranted damage to the reputation of an individual. (Section 3)

The bill also specifies that the public records and public meetings exemptions are subject to the [Open Government Sunset Review Act](#) and will stand repealed on October 2, 2031, unless saved from repeal by reenactment by the Legislature. (Sections 1 and 2)

The effective date of the bill is July 1, 2026. (Section [4](#))

[Article I, s. 24\(c\)](#) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

#### **FISCAL OR ECONOMIC IMPACT:**

#### **STATE GOVERNMENT:**

The bill will have an indeterminate, insignificant negative fiscal impact on expenditures to the State Courts System due to an increase in judicial workload resulting from the expansion of confidentiality requirements under the Baker and Marchman Acts.<sup>3</sup>

<sup>2</sup> [Ss. 394.464\(1\), F.S.](#), and [397.6760\(1\), F.S.](#)

<sup>3</sup> Office of State Courts Administrator, *Agency Bill Analysis HB 447 (2026)*, on file with the House Human Services Subcommittee.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Public Record and Public Meeting Exemptions

The Florida Constitution sets forth the state's public policy regarding access to government records and meetings. Every person is guaranteed a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.<sup>4</sup> All meetings of any collegial public body of the executive branch of state government or any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, must be open and noticed to the public.<sup>5</sup> The Legislature, however, may provide by general law an exemption<sup>6</sup> from public record or meeting requirements provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.<sup>7</sup>

Pursuant to the [Open Government Sunset Review Act](#),<sup>8</sup> a new public record or meeting exemption or substantial amendment of an existing exemption is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.<sup>9</sup>

#### Public Records

Current law addresses the public policy regarding access to government records, guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.<sup>10</sup> Furthermore, the Open Government Sunset Review Act provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."<sup>11</sup> An identifiable public purpose is served if the exemption meets one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.<sup>12</sup>

#### Public Meetings

<sup>4</sup> [Art. I, s. 24\(a\), FLA. CONST.](#)

<sup>5</sup> [Art. I, s. 24\(b\), FLA. CONST.](#)

<sup>6</sup> A public record exemption means a provision of general law which provides that a specified record or meeting, or portion thereof, is not subject to the access requirements of [s. 119.07\(1\), F.S.](#), [s. 286.011, F.S.](#), or [s. 24, Art. I](#) of the Florida Constitution. See [s. 119.011\(8\), F.S.](#) There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 04- 09 (2004).

<sup>7</sup> [Art. I, s. 24\(c\), FLA. CONST.](#)

<sup>8</sup> [S. 119.15, F.S.](#)

<sup>9</sup> [S. 119.15\(3\), F.S.](#)

<sup>10</sup> [S. 119.01, F.S.](#)

<sup>11</sup> [S. 119.15\(6\)\(b\), F.S.](#)

<sup>12</sup> *Id.*

Current law also addresses public policy regarding access to government meetings, requiring all meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken to be open to the public at all times, unless the meeting is exempt.<sup>13</sup> The board or commission must provide reasonable notice of all public meetings.<sup>14</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.<sup>15</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>16</sup> Failure to abide by public meeting requirements will invalidate any resolution, rule, or formal action adopted at a meeting.<sup>17</sup> A public officer or member of a governmental entity who violates public meeting requirements is subject to civil and criminal penalties.<sup>18</sup>

## Mental Health and Mental Illness

Mental health is a state of well-being in which the individual is able to cope with the normal stresses of life, realize his or her abilities, can work productively and fruitfully, and is able to contribute to his or her community.<sup>19</sup> The primary indicators used to evaluate an individual's mental health are:<sup>20</sup>

- Emotional well-being- Perceived life satisfaction, happiness, cheerfulness, peacefulness;
- Psychological well-being- Self-acceptance, personal growth, including openness to new experiences, optimism, hopefulness, purpose in life, control of one's environment, spirituality, self-direction, and positive relationships; and
- Social well-being- Social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, and sense of community.

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress or impaired functioning.<sup>21</sup> Thus, mental health refers to an individual's mental state of well-being, whereas mental illness signifies an alteration of that well-being. Mental illness affects millions of people in the United States each year. In 2024, 23.4 percent (61.5 million)<sup>22</sup> of adults age 18 or older experienced mental illness.<sup>23</sup> Of those with mental illness, 5.6 percent (14.6 million) had a serious mental illness.<sup>24</sup>

## The Baker Act

<sup>13</sup> [S. 286.011\(1\), F.S.](#)

<sup>14</sup> *Id.*

<sup>15</sup> [S. 286.011\(6\), F.S.](#)

<sup>16</sup> [S. 286.011\(2\), F.S.](#)

<sup>17</sup> [S. 286.011\(1\), F.S.](#)

<sup>18</sup> [S. 286.011\(3\), F.S.](#)

<sup>19</sup> World Health Organization, Mental Health: Strengthening Our Response, <https://www.who.int/news-room/fact-sheets/detail/mentalhealth-strengthening-our-response>, (last visited December 22, 2025).

<sup>20</sup> Centers for Disease Control and Prevention, Mental Health Basics, <http://medbox.iitab.me/modules/encdc/www.cdc.gov/mentalhealth/basics.htm>, (last visited December 22, 2025).

<sup>21</sup> *Id.*

<sup>22</sup> This is an estimate of adults classified as having "any mental illness" or AMI, which includes those with mental, behavioral, or emotional disorders. Adults classified as having AMI are further classified as having a serious mental illness or SMI. See Substance Abuse and Mental Health Services Administration (SAMHSA), Key Substance Use and Mental Health Indicators in the United States: Results from the 2024 National Survey on Drug Use and Health, available at <https://www.samhsa.gov/data/sites/default/files/reports/rpt56287/2024-nsduh-annual-national-report.pdf>, (last visited December 22, 2025).

<sup>23</sup> Substance Abuse and Mental Health Services Administration (SAMHSA), Key Substance Use and Mental Health Indicators in the United States: Results from the 2024 National Survey on Drug Use and Health, available at <https://www.samhsa.gov/data/sites/default/files/reports/rpt56287/2024-nsduh-annual-national-report.pdf>, (last visited December 22, 2025).

<sup>24</sup> *Id.*

The Florida Mental Health Act, commonly referred to as the Baker Act, was enacted in 1971 to revise the state's mental health commitment laws.<sup>25</sup> The Baker Act provides legal procedures for mental health examination and treatment, including voluntary and involuntary examinations. It additionally protects the rights of all individuals examined or treated for mental illness in Florida.<sup>26</sup>

### *Voluntary Admissions*

An individual may be admitted to a Baker Act receiving facility on voluntary status for observation, diagnosis or treatment.<sup>27</sup> A receiving facility may admit any adult who applies for admission by giving their expressed and informed consent, or any minor for whom application for admission is made by his or her parent or legal guardian.<sup>28</sup> If an adult is found to show evidence of mental illness, to be competent to provide express and informed consent, and to be suitable for treatment, he or she may be admitted to the facility. A minor may be admitted if the parent or legal guardian provides express and informed consent and the facility performs a clinical review to verify the voluntariness of the minor's assent.<sup>29</sup>

A voluntary patient who is unwilling or unable to provide express and informed consent to mental health treatment must either be discharged or transferred to involuntary status.<sup>30</sup> Additionally, a facility must discharge a patient within 24 hours if he or she is sufficiently improved such that admission is no longer appropriate, consent is revoked, or discharge is requested, unless the patient is qualified for and is transferred to involuntary status.<sup>31</sup>

### *Involuntary Examination*

Certain courts or authorized individuals may initiate an involuntary examination if there is reason to believe that the person of concern has a mental illness and, because of that mental illness:

- Has refused voluntary examination;
- Is likely to refuse to care for him or herself to the extent that such refusal threatens to cause substantial harm to that person's well-being, and
- Such harm is unavoidable through the help of willing, able, and responsible family members or friends, or will cause serious bodily harm to him or herself or others in the near future based on recent behavior.<sup>32</sup>

An involuntary examination may be initiated by:

- A circuit or county court entering an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony;<sup>33</sup>
- A law enforcement officer taking a person who appears to meet the criteria for involuntary examination into custody and delivering the person or having him or her delivered to a receiving facility for examination;<sup>34</sup> or
- A physician, clinical psychologist, psychiatric nurse, an autonomous advanced practice registered nurse, mental health counselor, marriage and family therapist, or clinical social worker executing a certificate

<sup>25</sup> The Baker Act is contained in Part I of ch. 394, F.S.

<sup>26</sup> [S. 394.459, F.S.](#)

<sup>27</sup> [S. 394.4625\(1\), F.S.](#)

<sup>28</sup> [Id.](#)

<sup>29</sup> [Id.](#)

<sup>30</sup> [S. 394.4625\(1\)\(e\), F.S.](#)

<sup>31</sup> [S. 394.4625\(2\), F.S.](#)

<sup>32</sup> [S. 394.463\(1\), F.S.](#)

<sup>33</sup> [S. 394.463\(2\)\(a\)1, F.S.](#) The order of the court must be made a part of the patient's clinical record.

<sup>34</sup> [S. 394.463\(2\)\(a\)2, F.S.](#) The officer must execute a written report detailing the circumstances under which the person was taken into custody, and the report must be made a part of the patient's clinical record. If transporting a minor and the parent or legal guardian of the minor is present, the law enforcement officer must provide the parent or legal guardian of the minor the name, address, and contact information of the receiving facility to which the minor is being transported.

stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination, including a statement of the professional's observations supporting such conclusion.<sup>35</sup>

Involuntary patients must be taken to either a public or private designated receiving facility.<sup>36</sup> Under the Baker Act, a receiving facility has up to 72 hours to examine the patient.<sup>37</sup> During that 72-hour period, an involuntary patient must be examined by a physician or a clinical psychologist, or by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist at the facility, to determine if the criteria for involuntary services are met.<sup>38</sup> The 72-hour examination period begins when the patient arrives at the receiving facility. However, if the patient is a minor, a receiving facility must initiate the examination within 12-hours of arrival.<sup>39</sup>

### *Involuntary Services*

Involuntary services are court-ordered inpatient and outpatient services for mental health treatment.<sup>40</sup> A court<sup>41</sup> may order a person to involuntary outpatient services, involuntary inpatient placement, or a combination of both types of involuntary services, based on the individual needs of the person, upon a finding of the court that by clear and convincing evidence, the person meets the criteria for the services ordered.<sup>42</sup>

A person ordered to involuntary services must meet the following criteria:<sup>43</sup>

- The person has a mental illness, and, because of that mental illness:
  - Is unlikely to participate in, and/or has refused, voluntary services for treatment, even after explanation of why the services are necessary, or is unable to determine for himself or herself whether services are necessary; and
    - Is unlikely to survive safely in the community without supervision, based on clinical determination;<sup>44</sup> or
    - Is incapable of surviving alone or with the help of willing, able, and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being or without treatment is likely to suffer from neglect or refuse to care for himself or herself;<sup>45</sup> and
  - All available less restrictive treatment alternatives that would offer an opportunity for improvement of the person's condition have been deemed to be inappropriate or unavailable.

In addition to criteria above, a person ordered to involuntary outpatient services must also meet the following criteria:<sup>46</sup>

- Have a history of lack of compliance with treatment for mental illness;

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<sup>35</sup> S. 394.463(2)(a)3., F.S. The report and certificate shall be made a part of the patient's clinical record.

<sup>36</sup> A receiving facility is designated by the Department of Children and Families to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider. [S. 394.455\(40\), F.S.](#)

<sup>37</sup> [S. 394.463\(2\)\(g\), F.S.](#)

<sup>38</sup> [S. 394.463\(2\)\(f\), F.S.](#)

<sup>39</sup> [S. 394.463\(2\)\(g\), F.S.](#)

<sup>40</sup> S. 394.455(24), F.S.

<sup>41</sup> [S. 394.467\(1\)\(a\), F.S.](#) defines the term "court" as a circuit court, or for commitments only to involuntary outpatient services, a county court.

<sup>42</sup> [S. 394.467\(2\), and \(8\)\(a\), F.S.](#)

<sup>43</sup> [S. 394.467\(2\)\(a\) and \(b\), F.S.](#)

<sup>44</sup> [S. 394.467\(2\)\(a\), F.S.](#)

<sup>45</sup> [S. 394.467\(2\)\(b\), F.S.](#)

<sup>46</sup> [S. 394.467\(2\)\(a\), F.S.](#)

- Is in need of involuntary outpatient services in order to prevent a relapse or deterioration that would be likely to result in serious bodily harm to himself or herself or others, or a substantial harm to his or her well-being;<sup>47</sup> and
- Is likely to benefit from involuntary outpatient services.

#### *Petition for Involuntary Services*

A petition for involuntary services may be filed by either a facility administrator or a service provider who is treating the person. The petitioner must state the type of involuntary services (outpatient services, inpatient placement, or a combination of both) being recommended, the length of time recommended for each type of involuntary service, and the reasons for the recommendation.<sup>48</sup> The petition must be based on the opinions of two professionals who have personally examined the individual.<sup>49</sup> For recommendations to involuntary inpatient placement, the patient must have been examined within the preceding 72 hours.<sup>50</sup> For recommendations to involuntary outpatient services, the patient must have been examined within the preceding 30 days.<sup>51</sup>

A petition that includes a recommendation for a period of involuntary outpatient services must meet additional requirements. For such a petition, the petitioner must:

- Identify the service provider that has agreed to provide services for the person, unless the person is otherwise participating in outpatient psychiatric treatment and is not in need of public financing; and<sup>52</sup>
- Prepare a written proposed services plan for the patient.<sup>53</sup> If a services plan is not available, the petitioner may not file the petition.

Regardless of the type of involuntary services being recommended, the administrator or service provider must file the petition in the appropriate court:

- A petition for involuntary inpatient placement, or inpatient placement followed by outpatient services must be filed in the court in the county where the patient is located.
- A petition for only involuntary outpatient services must be filed in the county where the patient is located, unless the patient is being held in a state treatment facility, in which case the petition must be filed in the county where the patient will reside.

The court must appoint a public defender to represent the person who is the subject of a petition for involuntary services or a petition for continued involuntary services<sup>54</sup> within one court working day after the petition is filed, unless the person is otherwise represented by counsel or ineligible.<sup>55</sup> The clerk of court must also provide copies of the petition and the recommended services plan, if applicable, to the Department of Children and Families (DCF), the managing entity,<sup>56</sup> the patient, the patient's guardian or representative, the state attorney, and the public defender or the patient's private counsel.<sup>57</sup>

<sup>47</sup> This factor is evaluated based on the person's treatment history and current behavior.

<sup>48</sup> [S. 394.467\(4\)\(a\)](#) and [\(d\), F.S.](#)

<sup>49</sup> [S. 394.467\(3\), F.S.](#)

<sup>50</sup> [S. 394.467\(3\)\(b\), F.S.](#)

<sup>51</sup> *Id.*

<sup>52</sup> [S. 394.467\(4\)\(d\)2., F.S.](#)

<sup>53</sup> [S. 394.467\(4\)\(d\)3., F.S.](#) A services plan is an individualized plan detailing the recommended behavioral health services and supports based on a thorough assessment of the needs of the patient to safeguard and enhance the patient's health and well-being in the community. [S. 394.467\(1\)\(d\), F.S.](#) The proposed services plan must be prepared by the petitioner in consultation with the patient, or the patient's guardian advocate.

<sup>54</sup> [S. 394.467\(11\)\(g\), F.S.](#) requires the court to appoint counsel for continued involuntary services in accordance with [s. 394.467\(7\), F.S.](#)

<sup>55</sup> [S. 394.467\(5\), F.S.](#)

<sup>56</sup> DCF contracts for behavioral health services through regional systems of care called managing entities. These entities do not provide direct services, but instead oversee regional behavioral health systems and manage state and federal funding to coordinate mental health and substance use disorder services for uninsured and underinsured Florida residents. DCF, *Managing Entities*, available at <https://www.myflfamilies.com/services/samh/providers/managing-entities>, (last visited December 22, 2025).

<sup>57</sup> [S. 394.467\(4\)\(f\), F.S.](#)

## *Hearings on Involuntary Services*

The court must hold a hearing for involuntary services within five court days of after the petition for involuntary services is filed, unless a continuance is granted.<sup>58</sup> If at the hearing the court concludes that the person meets the criteria for involuntary services, the court may order the person to involuntary inpatient placement, involuntary outpatient services, or a combination of involuntary services, for a period of up to six months.<sup>59</sup>

### *Petition for Continued Involuntary Services*

If a patient continues to meet the criteria for involuntary services, a petition for continued involuntary services must be filed to extend treatment for the patient. The petition must be filed before the expiration of the initial order committing the patient to involuntary services.<sup>60</sup>

Petitions for continued involuntary outpatient services, and petitions for continued involuntary inpatient placement for patients being treated at a receiving facility, must be filed by the service provider or the administrator of the receiving facility, respectively, in the court that issued the initial order.<sup>61</sup> Petitions for continued involuntary inpatient placement for patients being treated at a state mental health treatment facility, must be filed with the Division of Administrative Hearings, as proceedings regarding these petitions are handled administratively pursuant to [s. 120.57\(1\), F.S.](#)<sup>62</sup>

### Confidentiality of Service Provider Records in Baker Act Proceedings in Florida

In 2019, the Legislature created a public record exemption for certain information filed with a court under the Baker Act.<sup>63</sup> Specifically, all petitions for voluntary and involuntary admissions for mental health treatment, court orders, and related records that are filed with or by a court under the Baker Act are confidential and exempt<sup>64</sup> from public record requirements. However, the clerk of the court may disclose the pleadings and other documents to:<sup>65</sup>

- The petitioner;
- The petitioner's attorney;
- The respondent;
- The respondent's attorney;
- The respondent's guardian or guardian advocate, if applicable;
- In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate;
- The respondent's treating health care practitioner;
- The respondent's health care surrogate or proxy;
- DCF, without charge;
- The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from DCF; or
- A person or entity authorized to view records upon a court order for good cause.

<sup>58</sup> [S. 394.467\(6\), F.S.](#)

<sup>59</sup> [S. 394.467\(8\)\(a\), F.S.](#)

<sup>60</sup> [S. 394.467\(11\), F.S.](#)

<sup>61</sup> [S. 394.467\(11\)\(b\), F.S.](#)

<sup>62</sup> [S. 394.467\(11\)\(b\)3., F.S.](#)

<sup>63</sup> Ch. 2019-51, Laws of Fla., codified as [s. 394.464, F.S.](#)

<sup>64</sup> There is a difference between records the Legislature designates *exempt* from public record requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So.3d 1060, 1070 (Fla. 4th DCA 2018); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See Op. Att'y Gen. Fla. 04-09* (2004).

<sup>65</sup> [S. 394.464\(1\), F.S.](#)

Currently, a respondent's name, at trial and on appeal, and applications for voluntary and involuntary admission for mental health examinations are not part of the public record exemption, meaning this information is subject to public disclosure under current law.

However, the clerk of court is prohibited from publishing personal identifying information on a court docket or in a publicly accessible file.<sup>66</sup> This means that a court may not use a respondent's name to schedule and adjudicate cases, which includes transmitting a copy of any court order to the parties.

The 2019 public necessity statement<sup>67</sup> for the exemption provided a legislative finding that:<sup>68</sup>

A person's mental health is ... an intensely private matter. The public stigma associated with a mental health condition may cause persons in need of treatment to avoid seeking treatment and related services if the record of such condition is accessible to the public. Without treatment, a person's condition may worsen, the person may harm himself or herself or others, and the person may become a financial burden on the state. The content of such records or personal identifying information should not be made public merely because they are filed with or by a court or placed on a docket. Making such petitions, orders, records, and identifying information confidential and exempt from disclosure will protect such persons from the release of sensitive, personal information which could damage their and their families' reputations. The publication of personal identifying information on a physical or virtual docket, regardless of whether any other record is published, defeats the purpose of protections otherwise provided. Further, the knowledge that such sensitive, personal information is subject to disclosure could have a chilling effect on a person's willingness to seek out and comply with mental health treatment services.

The exemption applies to all documents filed with a court before, on, or after July 1, 2019.<sup>69</sup> Current law does not expressly apply the exemption to pending or filed appeals.

## Substance Use Disorder

A substance use disorder (SUD) is a complex medical condition in which there is an uncontrolled continued use of a substance or substances despite the harmful consequences and long-lasting changes to the brain.<sup>70</sup> A SUD is considered both a complex brain disorder and a mental illness. Approximately, 48.4 million people in the U.S. aged 12 and older (16.8 percent of the population) had a substance use disorder (SUD) in 2024.<sup>71</sup> The most common substance use disorders in the U.S. are from the use of alcohol, tobacco, cannabis, stimulants, hallucinogens, and opioids.<sup>72</sup>

<sup>66</sup> [S. 394.464\(3\), F.S.](#)

<sup>67</sup> [Art. I, s. 24\(c\), Fla. Const.](#), requires each public record exemption to "state with specificity the public necessity justifying the exemption."

<sup>68</sup> Ch. 2019-51, Laws of Fla.

<sup>69</sup> [S. 394.464\(5\), F.S.](#)

<sup>70</sup> American Psychiatric Association, *What is a Substance Use Disorder?*, available at <https://www.psychiatry.org/patients-families/addiction-substance-use-disorders/what-is-a-substance-use-disorder> and Substance Use Disorder Defined by NIDA and SAMHSA, *What is Drug Addiction*, available at <https://wyoleg.gov/InterimCommittee/2020/10-20201105Handoutfor6JtMHSACraig11.4.20.pdf> (last visited December 23, 2025).

<sup>71</sup> SAMHSA, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2024 National Survey on Drug Use and Health*, available at <https://www.samhsa.gov/data/sites/default/files/reports/rpt56287/2024-nsduh-annual-national-report.pdf>, (last visited on December 23, 2025).

<sup>72</sup> The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited December 23, 2025).

DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. DCF provides substance abuse treatment through a community-based provider system that offers detoxification, treatment, and recovery support for adolescents and adults affected by substance misuse, abuse or dependence:<sup>73</sup>

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.<sup>74</sup>
- **Treatment Services:** Treatment services<sup>75</sup> include a wide array of assessment, counseling, case management, and support services that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support. Some of these services may also be offered to the family members of the individual in treatment.<sup>76</sup>
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.<sup>77</sup>

## The Marchman Act

In the early 1970s, the federal government furnished grants for states “to develop continuums of care for individuals and families affected by substance abuse.”<sup>78</sup> The grants provided separate funding streams and requirements for alcoholism and drug abuse.<sup>79</sup> In response, the Florida Legislature enacted ch. 396, F.S., (alcohol) and ch. 397, F.S. (drug abuse).<sup>80</sup> In 1993, legislation combined chapters 396 and 397, F.S., into a single law, entitled the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).<sup>81</sup> The Marchman Act supports substance abuse prevention and remediation through a system of prevention, detoxification, and treatment services to assist individuals at risk for or affected by substance abuse.

An individual may receive services under the Marchman Act through either voluntary<sup>82</sup> or involuntary admission.<sup>83</sup> The Marchman Act establishes a variety of methods under which substance abuse assessment, stabilization, and treatment can be obtained on an involuntary basis. The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.<sup>84</sup> However, denial of addiction is a prevalent symptom of a SUD, creating a barrier to timely intervention and effective treatment.<sup>85</sup> As a result, a third party must typically provide a person the intervention needed to receive SUD treatment.<sup>86</sup>

<sup>73</sup> Department of Children and Families, available at *Treatment for Substance Abuse* <https://www.myflfamilies.com/services/samh/treatment> (last visited December 23, 2025).

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child protection system, employment, increased earnings, and better health.

<sup>76</sup> *Id.* at note 73.

<sup>77</sup> *Id.*

<sup>78</sup> Darran Duchene & Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Program, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited December 23, 2025).

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> Ch. 93-39, Laws of Fla., codified in Chapter 397, F.S. Reverend Hal S. Marchman was an advocate for persons who suffer from alcoholism and drug abuse.

<sup>82</sup> See [s. 397.601, F.S.](#)

<sup>83</sup> See ss. [397.675, F.S.](#) – [397.6977, F.S.](#)

<sup>84</sup> See s. [397.601\(1\)](#) and [\(2\)](#), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

<sup>85</sup> American Addiction Center: *Addiction Denial: Symptoms, Behaviors and How to Help*, available at

<https://americanaddictioncenters.org/rehab-guide/addiction-denial>, (last visited on December 23, 2025).

<sup>86</sup> *Id.*

## Voluntary Admissions

Any individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.<sup>87</sup>

Under the Marchman Act, a minor's consent to services has the same force and effect as an adult's.<sup>88</sup>

## Involuntary Admissions

The Marchman Act establishes a variety of methods under which substance abuse assessment, stabilization, and treatment can be obtained on an involuntary basis.<sup>89</sup> There are five involuntary admission procedures that can be broken down into two categories: non-court involved admissions and court involved admissions. Regardless of the nature of the proceedings, an individual meets the criteria for an involuntary admission under the Marchman Act when there is good faith reason to believe the individual is substance abuse impaired or has a substance use disorder and, because of such impairment or disorder:<sup>90</sup>

- Has lost the power of self-control with respect to substance use; and
- The person's judgment has been so impaired because of substance abuse that he or she is incapable of appreciating the need for substance abuse services and of making a rational decision in regard to substance abuse services; or
- Without care or treatment, is likely to suffer from neglect or refuse to care for him or herself to the extent that such refusal threatens to cause substantial harm to his or her well-being and such harm is unavoidable through help of willing, able, and responsible family members or friends; or
- The person has either inflicted, attempted or threatened to inflict, or unless admitted, is likely to inflict physical harm on himself, herself or another.

### *Non-Court Involuntary Admissions*

The three types of non-court procedures for involuntary admission for substance abuse treatment under the Marchman Act are:

- **Protective Custody:** This procedure is used by law enforcement officers when an individual is substance-impaired or intoxicated in public and is brought to the attention of the officer.<sup>91</sup>
- **Emergency Admission:** This procedure permits an individual who appears to meet the criteria for involuntary admission to be admitted to a hospital, an addiction receiving facility, or a detoxification facility for emergency assessment and stabilization. Individuals admitted for involuntary assessment and stabilization under this provision must have a physician's certificate for admission, demonstrating the need for this type of placement and recommending the least restrictive type of service that is appropriate to the needs of the individual.<sup>92</sup>
- **Alternative Involuntary Assessment for Minors:** This procedure provides a way for a parent, legal guardian, or legal custodian to have a minor admitted to an addiction receiving facility to assess the minor's need for treatment by a qualified professional.<sup>93</sup>

<sup>87</sup> [S. 397.601, F.S.](#)

<sup>88</sup> [S. 397.601\(4\)\(a\), F.S.](#)

<sup>89</sup> See [ss. 397.675 – 397.6978, F.S.](#)

<sup>90</sup> [S. 397.675, F.S.](#)

<sup>91</sup> [Ss. 397.6771 – 397.6772, F.S.](#) A law enforcement officer may take the individual to his or her residence, to a hospital, a detoxification center, or addiction receiving facility, or in certain circumstances, to jail. Minors, however, cannot be taken to jail.

<sup>92</sup> [S. 397.679, F.S.](#)

<sup>93</sup> [S. 397.6798, F.S.](#)

### *Court Involved Involuntary Treatment Services*

Involuntary treatment services include court-ordered involuntary assessment and stabilization, which provides for short-term court-ordered substance abuse services and court-ordered involuntary services, which provides for long-term court-ordered substance abuse treatment. An involuntary treatment petition must be filed with the court for an individual to be court-ordered to involuntary treatment services.<sup>94</sup>

A court may order an individual for involuntary treatment services if the person reasonably appears to meet the criteria for involuntary admissions, has previously been subject to involuntary admissions procedures<sup>95</sup> or assessed by a qualified professional within the specified period.<sup>96</sup>

A petition for involuntary treatment services may be filed by an individual's spouse or legal guardian, a relative, a service provider, or an adult who has direct personal knowledge of the respondent's substance abuse impairment and his or her prior course of assessment and treatment.<sup>97</sup> The petition must contain identifying information for all parties and attorneys and facts necessary to support the petitioner's belief that the respondent is in need of involuntary services for substance abuse impairment.<sup>98</sup> Upon filing of a petition for involuntary services, the court must immediately determine whether the individual is represented by an attorney, and if not, appoint counsel to represent the individual if appropriate.<sup>99</sup>

A hearing on a petition for involuntary treatment services must be held within 10 court working days after the petition is filed unless a continuance is granted.<sup>100</sup> If the petitioner asserts that emergency circumstances exist, or upon review of the petition the court determines that an emergency exists, the court may rely solely on the contents of the petition and, without the appointment of an attorney, enter an ex parte order for the individual's involuntary assessment and stabilization, which must be executed during the period when the hearing on the petition for treatment is pending.<sup>101</sup> If after clinical assessment, the court finds by clear and convincing evidence, that the conditions for involuntary treatment services are proven, the court may order the individual to receive involuntary services for a period not to exceed 90 days.<sup>102</sup>

### Confidentiality of Service Provider Records in Marchman Act Proceedings in Florida

In 2017, the Legislature created a public record exemption for certain information filed with a court under the Marchman Act.<sup>103</sup> Specifically, all petitions for involuntary assessment and stabilization, court orders, and related records that are filed with or by a court under the Marchman Act are confidential and exempt from public record requirements. However, the clerk of the court may disclose the pleadings and other documents that are exempt from public record under the Marchman Act to:<sup>104</sup>

- The petitioner;
- The petitioner's attorney;
- The respondent;
- The respondent's attorney;

<sup>94</sup> [S. 397.681, F.S.](#)

<sup>95</sup> [S. 397.68111, F.S.](#), specifies that the individual must have been placed in protective custody or have been subject to an emergency admission.

<sup>96</sup> [S. 397.68111, F.S.](#)

<sup>97</sup> [S. 397.68112, F.S.](#)

<sup>98</sup> [S. 397.68141, F.S.](#)

<sup>99</sup> S. 397.68151, F.S.

<sup>100</sup> [S. 397.68151, F.S.](#)

<sup>101</sup> [S. 397.6818, F.S.](#)

<sup>102</sup> An individual may not be involuntarily ordered into treatment without a clinical assessment being performed unless he or she is present in court and expressly waives the assessment. [S. 397.6957, F.S.](#)

<sup>103</sup> Ch. 2017-25, Laws of Fla., codified as [S. 397.6760, F.S.](#)

<sup>104</sup> [S. 397.6760\(1\), F.S.](#)

- The respondent's guardian or guardian advocate, if applicable;
- In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate;
- The respondent's treating health care practitioner;
- The respondent's health care surrogate or proxy;
- DCF, without charge;
- The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from DCF; or
- A person or entity authorized to view records upon a court order for good cause.

Under current law, a respondent's name, at trial and on appeal, and applications for voluntary and involuntary substance abuse treatment are not part of the public record exemption. However, as in the Baker Act, the clerk of court is prohibited from publishing personal identifying information on a court docket or in a publicly accessible file.<sup>105</sup>

The 2017 public necessity statement for the exemption provided the legislative finding that:<sup>106</sup>

A person's health and sensitive, personal information regarding his or her actual or alleged substance abuse impairment are intensely private matters. The media have obtained, and published information from, such records without the affected person's consent. The content of such records or personal identifying information should not be made public merely because they are filed with or by a court or placed on a docket. Making such petitions, orders, records, and identifying information confidential and exempt from disclosure will protect such persons from the release of sensitive, personal information which could damage their and their families' reputations. The publication of personal identifying information on a physical or virtual docket, regardless of whether any other record is published, defeats the purpose of protections otherwise provided. Further, the knowledge that such sensitive, personal information is subject to disclosure could have a chilling effect on a person's willingness to seek out and comply with substance abuse treatment services.

The exemption applies to all documents filed with a court before, on, or after July 1, 2017.<sup>107</sup> Current law does not expressly apply the exemption to pending or filed appeals.

#### RECENT LEGISLATION:

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2025	<a href="#">HB 1357</a> - Pub. Rec. and Meetings/Mental Health and Substance Abuse	Maney/ <i>Rodriguez</i>	Died in House
2024	<a href="#">CS/HB 7023</a> - Pub. Rec. and Meetings/Mental Health and Substance Abuse	Maney	Died in Senate
2022	<a href="#">HB 1157</a> - Pub. Rec./Court Records	Maney/ <i>Bean</i>	Died in House

<sup>105</sup> [S. 397.6760\(3\), F.S.](#)

<sup>106</sup> Ch. 2017-25, Laws of Fla.

<sup>107</sup> [S. 397.6760\(5\), F.S.](#)

**BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Human Services Subcommittee</a>	17 Y, 0 N	1/13/2026	Mitz	Curry
<a href="#">Judiciary Committee</a>				
<a href="#">Government Operations Subcommittee</a>				
<a href="#">Health &amp; Human Services Committee</a>				