



FAQ

FREQUENTLY ASKED QUESTIONS: INVOLUNTARY EXAMINATIONS

CHAPTER 394, FLORIDA STATUTES – THE BAKER ACT

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This document has no legal authority and cannot be used as legal advice. Statutes and rules can be modified and have many nuances that may not be covered in their entirety. Additionally, there are many special considerations and interpretations of the law. If you have a specific legal question, it is recommended that you speak with legal counsel.



HYPERLINKS:

Hyperlinks to State Statute and Florida Administrative Rules are provided throughout this document.

Links to supplemental material that supports specific questions also are provided.



Many of these materials can be found on the Florida Department of Children and Families mental health website at <http://www.myflfamilies.com/service-programs/samh>.



Links to online courses that support specific questions also are provided.

The full list of online courses can be found on the Florida Certification Board's Online Education Platform at <https://fcbonline.remote-learner.net/>.

A list of Florida's designated Baker Act receiving facilities may be found at <https://www.myflfamilies.com/service-programs/samh/crisis-services/docs/baker/Baker%20Act%20Receiving%20Faciliites.pdf>.

#	Question	Response	Statutes, Administrative Rules, & Forms
Criteria and Eligibility for Involuntary Services Under the Baker Act			
1.	What criteria are used to initiate an involuntary examination under the Baker Act?	<p>An individual meets the criteria for involuntary examination when <u>all the following</u> circumstances are met:</p> <ul style="list-style-type: none"> • There is a reason to believe that the individual is actively experiencing mental health symptoms that directly impact his or her mental or emotional processes and these symptoms significantly interfere with the individual’s ability to complete activities of daily living. • The individual’s recent behavior is influenced by mental health symptoms which indicates a substantial likelihood that, without immediate intervention, the individual will engage in activities that will soon cause significant physical harm to self or others. • The individual has either: 1) refused voluntary services, 2) is unable to provide express and informed consent due to a current inability to make a well-reasoned, willful, and knowing decision regarding treatment, or 3) has an involuntary examination initiated by a law enforcement officer. 	<p>s. 394.455, F.S. s. 394.463, F.S. ch. 65E-5.280, F.A.C.</p>
2.	<p>Can an involuntary examination be initiated based on a reason <i>other</i> than a mental health condition?</p> <div style="display: flex; align-items: center; margin-top: 10px;">   </div>	<p>No. Active symptoms of a mental health condition are required as the primary criteria for the initiation of an involuntary examination. An individual may have a co-occurring condition such as a developmental disability, intoxication, or antisocial behavior; but the symptoms related to the co-occurring condition cannot be the reason an involuntary examination is initiated. Actions under the Baker Act cannot substitute for involuntary examinations needed for persons with substance use concerns (Marchman Act). If the individual meets the criteria for both the Baker Act and the Marchman Act, an involuntary examination under the Baker Act may be initiated. The mental health conditions that typically qualify for an involuntary examination are categorized in the Diagnostic and Statistical Manual of Mental Disorders under Mood Disorders and Psychotic Disorders.</p> <p>More information about the criteria for an involuntary examination under the Baker Act and Marchman Act can be found in the online courses Introduction to the Baker Act and Marchman Act Basics respectively. More information about the Marchman Act may also be found in the Marchman Act Frequently Asked Questions.</p>	<p>s. 394.455(28), F.S. s. 394.463(1), F.S. s. 397.6751, F.S.</p>

#	Question	Response	Statutes, Administrative Rules, & Forms
Initiation of an Involuntary Examination			
3.	How is the involuntary examination of an individual initiated?	<p>The involuntary examination of an individual may be initiated in any of the following ways:</p> <ul style="list-style-type: none"> • A qualified professional (physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker) may complete a Certificate of a Professional, even if the individual agrees to voluntary services. The qualified professional must personally examine the individual within the preceding 48 hours and determine that he or she meets the criteria for an involuntary examination. The Certificate of a Professional is valid until executed which usually occurs when the individual is transported to a designated receiving facility or medical emergency department. • A law enforcement officer must initiate an involuntary examination when the individual appears to meet criteria. The officer completes a Report of a Law Enforcement Officer documenting the circumstances under which an individual is taken into custody. The officer may obtain this knowledge through first-hand experience or third-person report. • A circuit or county judge or magistrate must hold a hearing once a petition is filed for an ex parte order. The petition must include written or oral sworn testimony of the criteria for an involuntary examination. The judge or magistrate may, based on the evidence, enter an ex parte order if it appears that criteria is met for involuntary examination. Once an ex parte order is executed, law enforcement is generally tasked with locating the individual and transporting him or her to a designated receiving facility for examination. An ex parte order is only valid for the time period specified in the order. If no time period is specified the order is valid for seven (7) days from the date it was written. <p>Note that when an involuntary examination has been initiated, the individual does not have the authority to decline transfer or admission to a designated Baker Act receiving facility.</p>	<p>s. 394.455(38), F.S. s. 394.462(1), F.S. s. 394.463(2), F.S. ch. 65E-5.260(1), F.A.C. ch. 65E-5.270, F.A.C. ch. 65E-5.280, F.A.C. Paddock v. Chacko form CF-MH 3001 form CF-MH 3052a form CF-MH 3052b</p>

#	Question	Response	Statutes, Administrative Rules, & Forms
Initiation of an Involuntary Examination			
4.	<p>Is an involuntary examination the same as an involuntary placement?</p> 	<p>No. An involuntary examination is used for an initial involuntary hold of the individual for up to 72 hours. The involuntary examination period is to be used to assess the individual and identify appropriate services. Stabilization services should be offered in the receiving facility prior to discharge. Before the end of a 72-hour examination period the individual must be transferred to voluntary status, released from the facility, or have a petition filed for involuntary inpatient placement or involuntary outpatient services. Filing for involuntary inpatient placement or involuntary outpatient services provides a request for a court order to allow the facility to hold the individual for a longer period to stabilize symptoms that are likely to result in unsafe behaviors. The facility is authorized to continue to hold the individual in the facility until the court makes a determination. If the court order for involuntary placement is received, the order might be to continue services in the receiving facility or transfer the individual to a mental health treatment facility which is often referred to as a state hospital.</p> <p>More information on involuntary inpatient placement can be found in the Involuntary Inpatient Placement Frequently Asked Questions.</p>	<p>s. 394.463, F.S. s. 394.467, F.S.</p>
5.	<p>What happens when an individual cannot be transferred from a medical hospital to a designated Baker Act receiving facility within 12 hours of medical clearance?</p>	<p>The medical hospital should contact the mental health division of the regional DCF office or its regions Managing Entity as soon as the situation is recognized, even if the full 12 hours has not elapsed. The hospital can contact the local crisis stabilization unit (CSU) to assist with finding placement for the individual at a receiving facility even before the 12 hours have expired. The Florida Agency for Health Care Administration should be contacted if there is reason to believe that the denial is due to an EMTALA violation.</p> <p>Under no circumstances can a new involuntary examination be written just to extend the time to complete required tasks. An individual who still meets the criteria for involuntary services is expected to be held while a transfer is pursued as long as all other requirements have been met.</p>	<p>s. 394.463(2)(i), F.S. ch. 65E-5.351(5), F.A.C.</p>
6.	<p>Is a telehealth evaluation permitted to conduct the involuntary examination?</p>	<p>Yes. The law states that to initiate an involuntary examination, a mental health professional must have personally examined the individual within the preceding 48 hours, but does not define or restrict how that examination must be conducted.</p> <p>The involuntary examination, the psychiatric examination, and the second opinion for involuntary placement may all be completed in person or via a telehealth visit with video and audio. The first opinion for involuntary placement, however, must be in person.</p>	<p>s. 394.455(14), F.S. s. 394.463(2)(a)3, F.S. s. 394.4655(3), F.S. s. 394.467(2), F.S.</p>

#	Question	Response	Statutes, Administrative Rules, & Forms
Initiation of an Involuntary Examination			
7.	Can a psychiatrist or clinical psychologist initiate an involuntary examination and provide one of the two opinions for the petition for involuntary placement?	Yes. There are no restrictions preventing a psychiatrist or clinical psychologist from both initiating an involuntary examination and providing one of the two opinions to petition the court for involuntary placement. A psychiatrist also may serve as the individual’s attending physician during hospitalization.	
8.	Who qualifies as a law enforcement officer under the Baker Act?  	Under the Baker Act, a law enforcement officer is a person who works full time for a Florida municipality, political subdivision, or the state and who has the authority to bear arms and make arrests. The officer’s primary responsibility must be to prevent or detect criminal activity or traffic violations. More information on the duties of law enforcement officers under the Baker Act can be found in the online course Law Enforcement and the Baker Act and the Law Enforcement Frequently Asked Questions .	s. 394.455(24) , F.S. s. 943.10(1) , F.S. AGO 74-108 AGO 85-98 AGO 99-68
9.	Can a law enforcement officer initiate an involuntary examination in another Florida jurisdiction?	Yes. The Baker Act does not restrict an officer to initiating an involuntary examination within his or her own jurisdiction. An officer's jurisdiction may limit his or her authority, however, so it is important for officers to be aware of their department’s policies and procedures.	
10.	Can an off-duty law enforcement officer initiate an involuntary examination?	Yes. Within the scope of his or her official duties, an off-duty law enforcement officer can initiate an involuntary examination. An officer’s authority to intervene in emergency situations is valid even when he or she is off-duty.	s. 790.052(1)(a) , F.S. AGO 89-62

#	Question	Response	Statutes, Administrative Rules, & Forms
Initiation of an Involuntary Examination			
11.	Can a judge or magistrate initiate an involuntary examination based on his or her observations in the courtroom?	No. An ex parte order must be based on written or oral sworn testimony, which is typically provided through a petition submitted to the court. The courtroom observations of judges and magistrates also do not fit the requirements for completion of form CF-MH 3052a, the Report of Law Enforcement Officer Initiating Involuntary Examination.	s. 394.463(2)(a)1 , F.S. ch. 65E-5.280(1) , F.A.C. form CF-MH 3001 form CF-MH 3002
12.	What occurs after a judge or magistrate initiates an ex parte order for involuntary examination?	The individual must be located and transported to a designated Baker Act receiving facility by local law enforcement or an authorized agent of the court. Each county must designate a single law enforcement agency to provide transport. A law enforcement officer may execute an ex parte order at any time prior to its expiration; a Crisis Intervention Team (CIT) officer will be used when available. When executing an involuntary examination an officer may use reasonable physical measures to secure custody of the individual including measures required to gain entry to the premises where the individual is believed to be located.	s. 394.462(1)(a) , F.S. s. 394.463(2) , F.S.

#	Question	Response	Statutes, Administrative Rules, & Forms
Residents of Long-Term Care Facilities			
13.	<p>Are there special considerations when initiating an involuntary examination for a resident of a long-term care facility?</p> 	<p>Yes. The Baker Act requires that services be provided in the least restrictive environment even when an individual meets the criteria for an involuntary examination, so long-term facilities must first attempt to manage the resident’s behavior on-site. Management includes interventions such as redirection and, in the case of verbal threats, determining if the resident has the means to fulfill the threat.</p> <p>If the long-term care facility is unable to safely manage the resident’s behaviors, the staff must document the recent efforts made to manage the behavior, identify symptoms that appear to be directly related to a mental health condition, and acknowledge how the individual may receive additional benefits from the services offered at a receiving facility.</p> <p>More information about how the Baker Act laws apply to long-term care facilities can be found in the online course Long-Term Care and the Baker Act and the Long Term Care Facilities Frequently Asked Questions.</p>	<p>Olmstead v. L.C. 527 U.S. 581 s. 394.459(2)(b), F.S. s. 394.463(2)(b), F.S. Chapter 400, F.S. Chapter 429, F.S.</p>
14.	<p>Who can initiate an involuntary examination for a resident of a long-term care facility?</p>	<p>A qualified professional or law enforcement can initiate an involuntary examination, but law enforcement should not be the first option. Under most circumstances a qualified professional should examine the resident and determine whether an involuntary examination is appropriate since the individual is already in a secured facility with trained staff. A local emergency room physician may also initiate an involuntary examination if it is determined that criteria is met.</p>	<p>Olmstead v. L.C. 527 U.S. 581 Chapter 400, F.S. Chapter 429, F.S.</p>

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Residents of Long-Term Care Facilities			
15.	Can a resident of a long-term care facility receive voluntary services in a designated Baker Act receiving facility?	<p>Not under most circumstances. To be considered for voluntary admission, individuals in the following categories must be assessed to determine if they can provide express or informed consent prior to transport to a Baker Act receiving facility:</p> <ul style="list-style-type: none"> • Any resident of a nursing home who is at least 60 years old • Any individual who is at least 60 years old, has been diagnosed with dementia, and is the resident of an assisted living facility, adult day care center, or adult family care home • Any individual whose medical decisions are made legally by a health care surrogate or proxy <p>The evaluation to determine competence must be performed by a person who is <u>not</u> affiliated with either the individual’s residence or the receiving facility where the resident is expected to receive services. For this reason, a member of a local mobile crisis response service or mental health overlay program often must be called to perform this assessment. If a professional qualified to perform an involuntary evaluation is not able to respond within two hours of the time of the request, any qualified independent professional at a publicly funded mental health center may perform the evaluation as long as no conflict of interest has been identified.</p>	<p>s. 394.4625(1), F.S. ch. 65E-5.270(7), F.A.C. ch. 65E-5.280(6), F.A.C. form CF-MH 3022 form CF-MH 3099</p>
16.	How is transport to a designated Baker Act receiving facility provided for a resident of a long-term care facility?	<p>Once an involuntary examination is initiated, law enforcement will assess the situation and either transport the individual or cosign the transport to a contracted medical transport company. Many jurisdictions will provide transport by law enforcement only when the residents behavior prompts significant safety concerns. Facility staff and family members are <u>not</u> authorized to transport residents who have had an involuntary examination initiated.</p> <p>A resident of a long-term care facility must have an involuntary examination initiated or be evaluated as competent to provide express and informed consent before being transported to a designated Baker Act receiving facility; if neither of these have been completed or completed paperwork does not accompany the resident, the receiving facility legally cannot accept the individual for examination or admission. If the initiation paperwork is not present at the time of arrival, or the long-term care facility permitted an unauthorized person to transport the individual, the receiving facility must make a report to the Agency for Health Care Administration by the next working day. Receiving facilities should identify in their policies and procedures the proper course of action if this situation occurs.</p>	<p>s. 394.462(1)(n), F.S. s. 394.463(2)(b), F.S. s. 400.102 F.S. ch. 65E-5.270(7), F.A.C. ch. 65E-5.280(6), F.A.C.</p>

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Residents of Long-Term Care Facilities			
17.	What happens when a resident of a long-term care facility is released from a designated Baker Act receiving facility?	When the resident is released from a designated Baker Act receiving facility the long-term care facility where the individual resides is expected to accept the individual back into their facility to continue services. If the long-term care facility does not allow the individual to return to their residence, the facility must document its inability to meet the individual's ongoing needs due to a permanent change in the resident's functionality. In this case, the receiving facility staff is required to find an appropriate placement where it can safely discharge the individual.	42 C.F.R. 483.15(b)(3)(c)

#	Question	Response	Statutes, Administrative Rules, & Forms
Transportation and Transfers			
18.	Is a medical hospital required to transfer an individual under involuntary Baker Act status to a designated Baker Act receiving facility?	<p>Yes. Medical hospitals are required to complete a transfer to a designated receiving facility once the individual is medically cleared for transport. Hospitals are subject to Federal EMTALA regulations that require the safe transfer of an individual receiving services if specialized care can be better provided in another facility. The hospital must complete the transfer within the following timelines.</p> <ul style="list-style-type: none"> • The hospital has two (2) hours to notify the facility that the individual has been medically cleared. • The transfer must occur within 12 hours of the time the individual has been medically cleared. <p>More information about how transportation is provided under the Baker Act can be found in the online course Introduction to the Baker Act and the Transportation Frequently Asked Questions.</p>	42 CFR §489.24 s. 394.463(2)(i) , F.S. ch. 65E-5.2801(8)(a) , F.A.C.



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Transportation and Transfers			
19.	Can an individual receiving services from the Veteran’s Administration (VA) be transported to a local VA hospital for involuntary services under the Baker Act?	Sometimes. The Baker Act allows the court to transfer a veteran to a VA hospital if that individual meets the criteria for involuntary placement and it appears that such individual is eligible for care or treatment by the United States Department of Veterans Affairs or other agency of the United States Government. A VA facility has to first agree to the transfer. A veteran may also be transported from the receiving facility to the VA hospital with agreement of the veteran who is receiving services under voluntary status.	s. 394.462(1)(a) , F.S. s. 394.4672 , F.S.
20.	Can an individual be transferred to another designated Baker Act receiving facility after the required first and second opinions for involuntary placement have been completed?	Yes, but one of the professionals who provided either the first or second opinion for the petition for involuntary placement must be a witness at the individual's court hearing which is conducted in the county or facility where the individual is located.	s. 394.467(6)(a) , F.S.
21.	Can a designated Baker Act receiving facility refuse to accept an individual when little time is left in the 72-hour examination period?	Yes. The designated Baker Act receiving facility where the individual is to be transferred must have enough time to complete an examination and, if necessary, obtain a second opinion in order to file a petition for involuntary inpatient placement or involuntary outpatient services with the court.	ch. 65E-5.2801 , F.A.C.

#	Question	Response	Statutes, Administrative Rules, & Forms
Transportation and Transfers			
22.	Can a designated Baker Act receiving facility require medical clearance before accepting an individual for transfer?	Yes, but only if it is an individualized request used to identify whether the designated Baker Act receiving facility has the capability to provide appropriate services based on the individual's current needs. Routine requests for specific labs on all transfers would be inappropriate.	42 U.S.C. 1395dd(c)(1) s. 395.1041 , F.S. form CF-MH 3102

#	Question	Response	Statutes, Administrative Rules, & Forms
Acceptance by a Facility			
23.	What happens if an individual is brought to a designated Baker Act receiving facility for involuntary services without the paperwork properly completed?	If a law enforcement officer or medical transport company transports an individual to a designated Baker Act receiving facility under involuntary status, the facility must accept the individual even when an error exists in the paperwork. Discrepancies in information on the initiation form, such as the incorrect or misspelled name of an individual, should be noted on the cover sheet submitted to the Baker Act Reporting Center. If a vital piece of information is missing from the paperwork, the facility should contact the person initiating the examination and document the attempt to receive the corrected or missing information. A completed version of the form can be submitted to the receiving facility electronically, but not by someone other than the initiator.	s. 394.462(1) , F.S. s. 394.463 , F.S. form CF-MH 3100

#	Question	Response	Statutes, Administrative Rules, & Forms
Acceptance by a Facility			
24.	<p>Can a designated Baker Act receiving facility refuse to accept or admit an individual who is under involuntary status?</p>	<p>Not under most circumstances. The designated Baker Act receiving facility must screen all individuals who arrive under voluntary or involuntary status in order to determine the appropriateness of the individual for its services unless one of the following conditions is met:</p> <ul style="list-style-type: none"> • The individual is a resident of a long-term care facility and does have completed paperwork identifying that an involuntary examination has been initiated or an independent expert evaluation finds that he or she is competent to provide express and informed consent. • The individual has legal charges and the receiving facility documents substantial concerns regarding the provision of proper safety and security measures. <p>Only under these circumstances is the designated receiving facility permitted to refuse to accept an individual under involuntary status who is transported by a law enforcement officer or medical transport company. Correctional facilities who request transfer to a receiving facility should first obtain consent of the receiving facility prior to transfer. Individuals who are refused admission due to legal charges must still have access to Baker Act services, even if it is onsite at the correctional facility where he or she is being detained. If an individual at a designated receiving facility needs to be transferred to another receiving facility or medical emergency department, it is the responsibility of the sending facility to make arrangements for transport; law enforcement is not permitted to provide this transport even if the officer is still on site.</p> <p>If the facility does not have the capacity or capability to provide services, the facility does not have to admit the individual. The individual may be transferred to an appropriate facility for services. When warranted, the individual may also be transferred to a medical emergency department for medical examination and clearance.</p> <p>More information about the responsibilities of a receiving facility can be found in the online course Implementing Procedures in Receiving Facilities.</p>	<p>s. 394.459(2)(a), F.S. s. 394.462(1), F.S. s. 394.463(2), F.S. ch. 65E-5.400(5)(a)1, F.A.C. ch. 65E-12.107, F.A.C. form CF-MH 3119</p>



#	Question	Response	Statutes, Administrative Rules, & Forms
Admission to a Facility			
25.	<p>What is a designated Baker Act receiving facility required to do after admitting an individual for an involuntary examination?</p>  	<p>A designated Baker Act receiving facility must fulfill the following requirements after an individual arrives for an involuntary examination:</p> <ul style="list-style-type: none"> ● Request contact information for a personal representative ● Contact the individual’s guardian, even if the individual opposes. ● Contact the individual’s representative if the individual has no guardian, unless the individual requests that no contact be made. ● Provide the individual, along with any authorized substitute decision-maker, with a copy of the rights of individuals receiving inpatient services, including the right to request discharge from the facility. ● Give the individual and his or her representative a copy of the documented inventory of the belongings the individual possessed when admitted to the facility. ● Conduct psychiatric and physical examinations of the individual within the required timeframes. ● Complete a treatment plan for the individual within five (5) days of admission and prior to discharge. ● Develop a discharge plan with the individual. ● Send the initiating document, the transportation form, and a corresponding cover sheet to the Baker Act Reporting Center. <p>More information about a receiving facility’s required duties and time frames can be found in the online course <u>Implementing Procedures in Receiving Facilities</u> and the <u>Receiving Facilities Frequently Asked Questions</u>.</p>	<p>s. 394.4597(2), F.S. s. 394.4599(xx), F.S. ch. 65E-5.160, F.A.C. ch. 65E-5.200, F.A.C. ch. 65E-5.280(5), F.A.C. ch. 65E-5.2801(7), F.A.C. ch. 65E-5.285, F.A.C. ch. 65E-5.290(10), F.A.C. ch. 65E-5.300(6), F.A.C. ch. 65E-5.400(5)(a)4, F.A.C. form CF-MH 3045 form CF-MH 3036 form CF-MH 3043 form CF-MH 3103</p>

#	Question	Response	Statutes, Administrative Rules, & Forms
Mandatory Involuntary Examinations			
26.	<p>How is the 72-hour examination period determined?</p>  	<p>The 72-hour examination period begins at the time the individual first arrives at a designated Baker Act receiving facility or medical hospital after the involuntary examination has been initiated. The same clock is used even if the individual transfers between facilities. If the individual is sent to a medical hospital for a medical examination or treatment, the clock on the 72-hour countdown can be suspended. Once the individual’s medical emergency has stabilized or been determined not to exist, the 72-hour Baker Act examination period resumes.</p> <p>Even if an individual is admitted to a medical unit of a non-designated Baker Act receiving facility, the 72-hour clock may still be suspended if the physician documents that the individual is experiencing an emergency medical condition. The clock resumes as soon as the physician documents that the individual is no longer experiencing an emergency medical condition, even if the individual needs to continue to receive treatment at the medical hospital.</p> <p>More information about how emergency medical conditions interact with the Baker Act be found in the online course Emergency Medical Treatment: Florida’s Baker Act and Marchman Act and the Emergency Medical Conditions Frequently Asked Questions.</p>	<p>s. 394.463(2), F.S. s. 394.463(2), F.S. ch. 65E-5.2801(4)(c), F.A.C. form CF-MH 3102</p>

#	Question	Response	Statutes, Administrative Rules, & Forms
Mandatory Involuntary Examinations			
27.	<p>What are the involuntary examination requirements?</p>  	<p>The initial mandatory involuntary examination must be completed by a physician or clinical psychologist. If the facility is part of a hospital system a psychiatric nurse performing within the framework of an established protocol with a psychiatrist may complete the evaluation. An emergency department physician with mental health experience can also complete the examination.</p> <p>The professional completing the involuntary examination must document the following in the individual’s clinical record:</p> <ul style="list-style-type: none"> • Review of the initiating document and the accompanying transportation form • Thorough review of the individual’s recent behavior observed by the professional • Brief psychiatric history • Face-to-face examination to determine if the individual meets the criteria to be released from involuntary status or discharged from the facility (the face-to-face examination may be conducted electronically with audio and visual communications) • Final determination of the treatment needs based on the completion of the involuntary examination <p>For minors, the involuntary examination must be initiated within 12 hours of arrival to the facility. For adults, the involuntary examination must occur without unnecessary delay within the 72-hour examination period.</p> <p>More information about how the Baker Act applies to minors can be found in the online course Minors and the Baker Act and the Minors Frequently Asked Questions.</p>	<p>s. 394.459(2)(c), F.S. s. 394.463(2), F.S. ch. 65E-5.2801, F.A.C. form CF-MH 3111</p>

#	Question	Response	Statutes, Administrative Rules, & Forms
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Mandatory Involuntary Examinations

28.	What happens at the end of the 72-hour examination period?	<p>Prior to the expiration of the 72-hour examination period, one of the following actions must occur:</p> <ul style="list-style-type: none"> • The individual is released from the facility. • The individual is transferred to voluntary status. • The individual is petitioned for involuntary outpatient services and may be retained in the facility or released pending a court hearing. • The individual is petitioned for involuntary inpatient placement and retained in the facility until he or she is safe to be released, is transferred to another facility, or the court orders release. <p>If the individual appears to meet the criteria for involuntary placement, the administrator of the facility must file a petition within the 72-hour examination period. If the 72-hour examination period ends on a weekend or holiday, the individual may be held in the facility as long as all the mandatory examinations and paperwork to petition the court for involuntary outpatient services or an involuntary inpatient placement have been completed within the 72-hour period. The paperwork must be filed with the court on the next working day of the court. If no action is taken, the individual must be released from the facility upon the expiration of the 72-hour period.</p>	s. 394.463(2)(g) , F.S. ch. 65E-5.2801 , F.A.C.
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Transferring between Voluntary and Involuntary Status

29.	<p>What are the criteria for individuals to receive voluntary Baker Act services?</p> 	<p>Designated Baker Act receiving facilities are required to provide services to individuals under both voluntary and involuntary status. An individual meets the criteria for voluntary inpatient Baker Act services when he or she may benefit from inpatient mental health services, cannot receive the same benefit at a lower level of care, and is able and willing to provide express and informed consent for admission, examination, and treatment. More information on voluntary services can be found in the Voluntary Admission Frequently Asked Questions while more information on express and informed consent can be found in the Express and Informed Consent Frequently Asked Questions.</p>	s. 394.4625(1) , F.S. ch. 65E-5.170 , F.A.C. ch. 65E-5.270 , F.A.C. form CF-MH 3040
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#	Question	Response	Statutes, Administrative Rules, & Forms
Transferring between Voluntary and Involuntary Status			
30.	Are certain individuals prohibited from receiving voluntary Baker Act services?	<p>Yes. The following individuals are only able to receive services under involuntary Baker Act status and are legally excluded from voluntary admission:</p> <ul style="list-style-type: none"> • The individual is unwilling or unable to provide express and informed consent. • The individual is charged with a crime, including those who are in the custody of the Department of Corrections or the Department of Juvenile Justice. 	<p>s. 394.4625, F.S. s. 394.463(2)(g), F.S. ch. 65E-5.270, F.A.C.</p>
31.	<p>What is the process for transferring an individual between voluntary and involuntary legal status?</p> 	<p>A physician, psychologist and, in some cases, a psychiatric nurse can transfer an individual from voluntary to involuntary status when both of the following criteria are met:</p> <ul style="list-style-type: none"> • The individual refuses voluntary services or meets the exclusionary criteria for voluntary status (i.e., is determined to not be competent by a physician, has a legal guardian, or has qualifying criminal charges). • The individual meets the criteria for involuntary inpatient placement or involuntary outpatient services. <p>The paperwork for involuntary placement must be filed by the facility administrator within two (2) working days of the individual's transfer from voluntary to involuntary status.</p> <p>An individual that no longer meets involuntary criteria must be discharged unless they meet all of the following criteria for and engage in voluntary services:</p> <ul style="list-style-type: none"> • The individual requests voluntary treatment • Is suitable for treatment • Is assessed by the physician to be competent to provide express and informed consent for treatment • Is not excluded by the law from being on voluntary status <p>More information about the criteria for voluntary status can be found in the Voluntary Admission Frequently Asked Questions. More information about involuntary services can be found in the Involuntary Inpatient Placement Frequently Asked Questions and the Involuntary Outpatient Placement Frequently Asked Questions.</p>	<p>s. 394.4625(5), F.S. s. 394.463(2)(f), F.S. s. 394.469, F.S. ch. 65E-5.270, F.A.C. ch. 65E-5.280(3), F.A.C. ch. 65E-5.2801, F.A.C. form CF-MH 3104</p>

#	Question	Response	Statutes, Administrative Rules, & Forms
Individuals with Legal Involvement			
32.	Can an individual who has committed a crime be taken to a designated Baker Act receiving facility for evaluation rather than be arrested?	<p>Yes. When a law enforcement officer encounters an individual who meets the criteria for an involuntary examination and is believed to have engaged in minor criminal behavior, including any misdemeanor charge other than domestic violence or a DUI, law enforcement must initiate an involuntary examination and first transport the individual to a designated Baker Act receiving facility</p> <p>If, however, the individual meets the criteria for an involuntary examination <u>and</u> a felony, misdemeanor DUI, or misdemeanor domestic violence charge, the individual must first be transported to and booked at the local jail. The individual then may receive Baker Act services on-site at the jail or at a public receiving facility.</p>	s. 394.462(1) , F.S.
33.	How does an individual in the custody of the Department of Corrections or the Department of Juvenile Justice receive services under the Baker Act?	<p>Once an involuntary examination is initiated by a qualified professional or an Ex Parte Order, the individual will receive services from the local crisis stabilization unit (CSU).</p> <p>The CSU may provide services at their facility or, if the CSU does not have both the capacity and capability to provide appropriate services, the CSU is responsible for providing on-site services at the correctional facility where the individual is being held. These services may be provided through telehealth. The CSU may also make a referral to another CSU that can accept the individual. A receiving facility that is not designated as a CSU is not authorized to provide service to individuals with active criminal charges. Upon discharge, the individual must be released directly to law enforcement.</p>	s. 394.463(2)(g) , F.S. form CF-MH 3052b form CF-MH 3001

#	Question	Response	Statutes, Administrative Rules, & Forms
Elopement Under Involuntary Status			
34.	What happens when an individual under involuntary status elopes from a facility?	<p>When an individual who was being held for involuntary examination or has a court order for involuntary placement elopes from the facility, law enforcement must be contacted and provided with a copy of the initiating documents. Law enforcement must search for and, once located, return the individual to a designated Baker Act receiving facility.</p> <p>If the individual was currently receiving services from a medical emergency department, the individual must be returned to that hospital.</p>	s. 394.467(8) , F.S.

#	Question	Response	Statutes, Administrative Rules, & Forms
Release from Involuntary Status			
35.	Can an individual be released from involuntary status with a phone order?	Yes. There is nothing that prevents a psychiatrist or clinical psychologist from providing a phone order to convert someone from involuntary to voluntary status or for release. However, the initial examination must have been previously conducted face to face in a timely manner to determine if the individual meets criteria for release. Telemedicine qualifies as a face to face to service as long as both audio and video components are used.	s. 394.469 , F.S. ch. 65E-5.2801 , F.A.C. form CF-MH 3038
36.	Who must be notified when an individual who was receiving services under involuntary status is released from a medical hospital or a designated Baker Act receiving facility?	<p>The following notifications must be made when an individual who had been receiving services under involuntary status is released from a medical hospital or a designated Baker Act receiving facility:</p> <ul style="list-style-type: none"> • The guardian or representative of the individual receiving services • The professional who executed a certificate that prompted the individual's admission to the facility • The court that ordered the individual's evaluation • The consulate of another country where the individual holds citizenship 	<u>Consular Notification and Access</u> s. 394.463(3) , F.S. form CF-MH 3038

#	Question	Response	Statutes, Administrative Rules, & Forms
Release from Involuntary Status			
37.	If a court releases an individual from a designated Baker Act receiving facility but the psychiatrist believes the discharge is unsafe, can the psychiatrist initiate an involuntary examination?	No. In order to fulfill a court order the individual must be properly discharged, including leaving the premises of the designated Baker Act receiving facility. Only after a proper discharge can another involuntary examination be initiated if the individual actively meets the relevant criteria. Following discharge, staff at the discharging facility or a family member may contact the non-emergent number of local law enforcement to perform a wellness check.	
38.	What is the process for releasing an individual once a petition for involuntary inpatient placement has been filed?	A psychiatrist or clinical psychologist must release the individual from involuntary status if that individual no longer meets the criteria for involuntary placement even if a petition has been filed with the court or a court order has been granted. An emergency room physician or qualified professional in a medical hospital may also release the individual if they believe that the individual no longer meets Baker Act criteria. A transfer to voluntary status is not necessary to discharge the individual from the facility, however. The facility’s administrator must notify the court in which the petition was filed of the individual’s release from the facility or transfer from involuntary to voluntary status.	s. 394.463 , F.S. ch. 65E-5.2801(8) , F.A.C. form CF-MH 3038 form CF-MH 3111