

# MEMORANDUM

Agenda Item No. 11(A)(25)

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**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

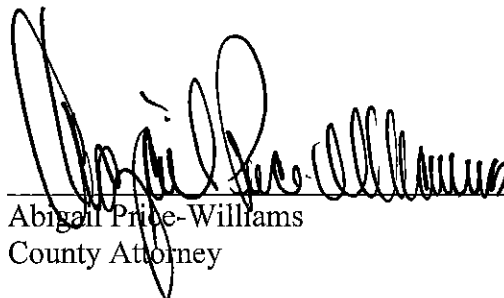
**DATE:** January 20, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution urging the Florida  
Legislature to amend the  
Marchman Act so that the  
procedures for the involuntary  
assessment and treatment of  
individuals who are substance  
abuse impaired are more similar  
to Baker Act procedures for the  
involuntary examination and  
treatment of individuals who  
have a mental illness

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.



Abigail Price-Williams  
County Attorney

APW/jls

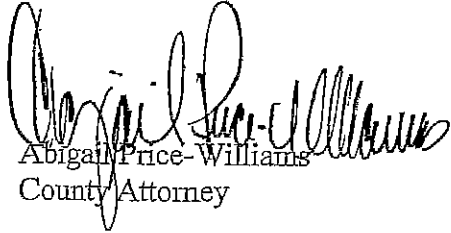


# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** January 20, 2016

**FROM:**   
Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 11(A)(25)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(25)  
1-20-16

RESOLUTION NO. \_\_\_\_\_

RESOLUTION URGING THE FLORIDA LEGISLATURE TO AMEND THE MARCHMAN ACT SO THAT THE PROCEDURES FOR THE INVOLUNTARY ASSESSMENT AND TREATMENT OF INDIVIDUALS WHO ARE SUBSTANCE ABUSE IMPAIRED ARE MORE SIMILAR TO BAKER ACT PROCEDURES FOR THE INVOLUNTARY EXAMINATION AND TREATMENT OF INDIVIDUALS WHO HAVE A MENTAL ILLNESS

**WHEREAS**, substance abuse is a major health problem that not only impacts individuals but also affects families and the community at-large; and

**WHEREAS**, successfully addressing substance abuse requires a comprehensive system that includes, but is not limited to, services for prevention, intervention, clinical treatment, and recovery support; and

**WHEREAS**, Miami-Dade County has long been a pioneer on the national level with regard to its efforts to address substance abuse in its community; and

**WHEREAS**, for example, Miami-Dade County was the first community in the United States to implement Drug Court, a diversion and treatment program for drug offenders that identifies appropriate candidates, diverts those candidates from ordinary criminal prosecution, and provides rehabilitation to those individuals with supervision by the court and treatment specialists; and

**WHEREAS**, the success of Miami-Dade County's Drug Court program has served as a model that has been emulated by over 2,000 communities nationwide; and

**WHEREAS**, the State of Florida has also outlined a comprehensive approach to address substance abuse in Chapter 397, Florida Statutes, also known as the Hal S. Marchman Alcohol and Drug Services Act ("the Marchman Act"); and

**WHEREAS**, the Marchman Act, among other things, allows courts to order individuals who are believed to be substance abuse impaired and (1) have lost self-control, (2) pose a physical danger to themselves or others, or (3) have sufficiently impaired judgment, to submit to a medical assessment by a licensed service provider and, if needed, to receive substance abuse treatment; and

**WHEREAS**, the current procedure is a two-step process whereby: (1) a parent, legal guardian, spouse, relative, private physician, or licensed service provider must file a petition with the court that outlines the facts that support the need for an individual to submit to an assessment of their substance abuse; a hearing must then be held with the individual present where the court must determine whether there is a reasonable basis to believe that the individual meets the criteria for being substance abuse impaired, and, if the court makes that determination, then the individual is ordered to undergo an assessment at a licensed service provider; and (2) after that assessment has occurred, a parent, legal guardian, spouse, relative, private physician, or licensed service provider must then file another petition with the court within five days outlining the facts that support the need for the individual to submit to treatment for their substance abuse impairment; a second hearing is held, and, if the court makes the proper determination after reviewing the evidence, only then can the individual be ordered to undergo treatment for his or her substance abuse impairment; and

**WHEREAS**, this process is overly burdensome for concerned families attempting to get proper care for their family members with substance abuse issues because it involves multiple filings, imposes short deadlines, and requires concerned families to secure the presence of the individual with substance abuse issues in court on two separate occasions; and

**WHEREAS**, this process is in need of reform, and a model that can be followed to improve these procedures already exists within the Florida Statutes; and

**WHEREAS**, Chapter 394, Florida Statutes, also known as the Baker Act, provides a process for courts to order individuals who are believed to have a mental illness that poses a substantial harm to the individual's well-being to submit to an examination and, if needed, to receive treatment for their mental illness; and

**WHEREAS**, the procedure outlined in the Baker Act for court-ordered examination and treatment is considerably less onerous for concerned families because it places responsibility for follow-up action in the hands of licensed professionals, authorizes the court to issue an ex parte order for the individual to undergo an examination based upon credible sworn testimony and command a law enforcement officer or other agent of the court to deliver the individual to a facility for the examination, and, consequently, is more effective in getting an individual the help he or she needs; and

**WHEREAS**, on December 2, 2014, this Board enacted Resolution No. R-1085-14, which urged the Florida Legislature to amend the Marchman Act so that the procedures for the involuntary assessment and treatment of individuals who are substance abuse impaired are more similar to the procedures in the Baker Act; and

**WHEREAS**, during the 2015 regular legislative session, the Florida Legislature considered Senate Bill ("SB") 7070, which would have integrated the Marchman Act into the Baker Act so that the commitment, treatment, and care of persons with both mental illness and substance abuse impairment would be governed by the Baker Act's procedures; and

**WHEREAS**, in addition to SB 7070, a number of related bills were also filed for consideration during the 2015 regular legislative session; and

**WHEREAS**, none of these measures ultimately passed the Legislature; and

**WHEREAS**, this Board would like to renew its support for legislation that will reform the Marchman Act to better address the needs of individuals with substance abuse disorders,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board:

**Section 1.** Urges the Florida Legislature to amend the Marchman Act to the extent permitted by law so that the procedures for the involuntary assessment and treatment of individuals who are substance abuse impaired are more similar to the procedures in the Baker Act for the involuntary examination and treatment of individuals who have a mental illness.

**Section 2.** Directs the Clerk of the Board to transmit certified copies of the resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade State Legislative Delegation.

**Section 3.** Directs the County's state lobbyists to advocate for the issues identified in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2016 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Audrey M. Edmonson. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 20<sup>th</sup> day of January, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

MBV

Michael B. Valdes