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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(21)

TO: Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners

DATE: December 2, 2014

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Resolution urging the Florida Legislature to amend the Marchman Act to provide 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

Resolution No. R-1085-14

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

R. A. Cuevas, Jr.
County Attorney

RAC/cp

MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 2, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 11(A)(21)

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**

_____ **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)(21)
12-2-14

RESOLUTION NO. R-1085-14

RESOLUTION URGING THE FLORIDA LEGISLATURE TO AMEND THE MARCHMAN ACT TO PROVIDE 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 himself or herself 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 5 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 their 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 by requiring multiple filings, short deadlines, and the need 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, Florida law also 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 in Chapter 394, Florida Statutes, also known as the Baker Act; and

WHEREAS, the procedure outlined in the Baker Act for court-ordered examination and treatment is considerably less onerous for concerned families by placing 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;

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, 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 include this item in the 2015 State Legislative Package when it is presented to the Board.

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

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

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of December, 2014 This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. MBV

Michael B. Valdes