

MEMORANDUM

Agenda Item No. 11(A)(25)

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

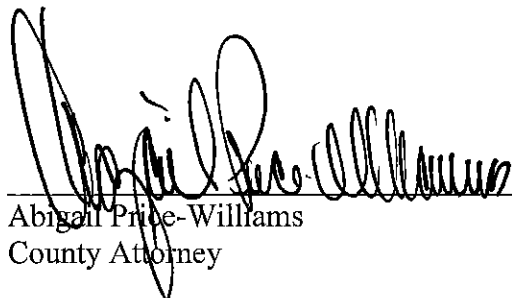
DATE: January 20, 2016

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

Resolution No. R-74-16

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. R-74-16

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.

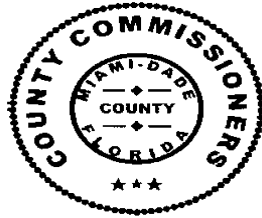
Section 2. Directs the Clerk of the Board to transmit certified copies of the resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade State Legislative Delegation.

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 **José "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 20th 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: ***Christopher Agrippa***
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MBV

Michael B. Valdes