

Summary of Enrolled Bills SB 12, HB 769 and HB 439

SB 12 relates to mental health and substance abuse. The bill makes significant changes to the Baker Act and the Marchman Act. The bill provides for a coordinated system of care for those suffering from mental illness or substance use disorder through a “No Wrong Door” single access point receiving system. The bill substantially rewrites the provisions regarding behavioral health managing entities. The bill requires the Department of Children and Families to appoint a workgroup on the use of advance directives for substance use disorders. The bill provides that a parenting plan that provides for shared parental responsibility over health care decisions must authorize either parent to consent to mental health treatment for the child. The bill expands the courts’ authority to authorize mental health assessments and participation in a mental health court program for persons seeking custody of a child in chapter 39, F.S., child welfare cases. The bill authorizes the county criminal courts to order involuntary outpatient services under the Baker Act. The bill authorizes a county court to enter ex parte orders for involuntary examination under the Baker Act. The bill revises the Baker Act provisions for involuntary examination and inpatient and outpatient placement. The bill revises the involuntary assessment and involuntary services provisions of the Marchman Act in an effort to more closely align it with the Baker Act. The bill specifies persons prohibited from being appointed as a representative or guardian advocate under the Baker Act. The bill revises the criteria for involuntary assessment under the Marchman Act. The bill provides for the appointment of guardian advocates in Marchman Act cases. The bill specifies that there are no filing fees for petitions under the Marchman Act.

HB 439 establishes mental health court programs by authorizing counties to fund treatment-based pretrial and post-adjudicatory mental health court programs. The bill expands courts’ authority to authorize mental health assessments and participation in a mental health court program for persons seeking custody of a child in chapter 39, F.S., child welfare cases. Currently, the courts can order substance abuse assessment and drug court participation. The bill authorizes criminal county courts to hear involuntary petitions for outpatient placement and order involuntary outpatient placement. The bill expands the eligibility criteria for veterans court programs to include veterans who were discharged or released under a general discharge. Currently, only veterans with an honorable discharge are eligible for veterans court programs. The bill creates a definition for term "mental health probation" and revises the definition of the term “problem-solving court” for the transfer statute s. 910.035, F.S. The bill authorizes the Department of Children and Families to implement a Forensic Hospital Diversion Pilot Program in Duval, Broward and Miami-Dade Counties.

HB 769 provides for the admitting physician at a forensic or civil facility to order the continued administration of psychotropic medications for incompetent individuals who were receiving such medications in the jail before admission. The bill requires a 30-day time frame for competency and commitment status hearings. The bill allows a court discretion to dismiss certain charges for nonviolent defendants that remain incompetent to proceed to trial after 3 years. Currently, charges must be dismissed after 5 years unless the court specifies by order reasons for believing that competency will be restored and a reasonable time frame within which restoration is expected. The bill specifically lists serious crimes that would bar the early dismissal of charges (less than 5 years). If the charge is for an

offense other than those crimes specifically enumerated in the bill, the court has discretion to dismiss the charges between 3 and 5 years after a determination that the defendant was incompetent to proceed. The bill provides that nothing would prevent the state from refiling dismissed charges if the defendant is declared to be competent to proceed in the future.