

MEMORANDUM

IM&FR

AGENDA ITEM NO. 2D

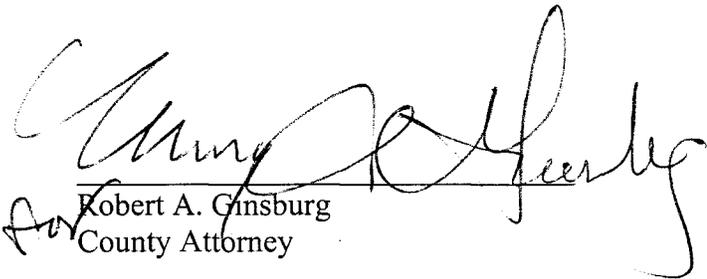
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: June 16, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to the
Courts; imposing additional
surcharges on certain crimes
and traffic offenses and
violations

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Sally A. Heyman and the Clerk of the Court.


Robert A. Ginsburg
County Attorney

RAG/bw

Memorandum



Date: June 16, 2005

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Ordinance creating Sections 11-13 and 11-14 of the Code of Miami-Dade County to impose additional surcharges on certain crimes and traffic offenses and violations

The ordinance creating sections 11-13 and 11-14 of the Code of Miami-Dade County to impose additional surcharges on certain crimes and traffic offenses and violations will have a positive fiscal impact to Miami-Dade County. For the remainder of FY 2004-05 it is estimated that these surcharges will generate approximately \$850,000. On an annual basis, the estimated revenues would be \$6.3 million.

In 1998, the voters of Florida approved Revision 7 to Article V of the State Constitution transferring funding responsibility for much of the state court system from the counties to the State. Counties retained the obligation to fund certain court facility and communications needs, as well as local requirements as certified by the Chief Judge of each judicial circuit. Legislation implementing this revision, approved during the 2003 State legislative session, redirected all filing fee revenues and other surcharges that had previously been paid to counties to the clerks and the State to fund court-related activities. Municipalities were held harmless; fine and forfeiture revenues used primarily to support law enforcement activities continue to accrue to municipalities.

During the 2004 legislative session, several new revenue streams, including certain court costs and surcharges were authorized in State Statutes to provide funding for information technology needs, facility needs, legal aid programs, law libraries, teen courts, juvenile assessment centers and other juvenile programs, and court innovations and local requirements. The Board imposed these court costs and surcharges on June 8, 2004 (See Ordinance No. 04-116).

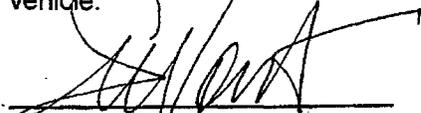
The court system is a part of the larger criminal justice system, which includes law enforcement and other activities. The criminal justice system is a very symbiotic system: impacts to any element affect the entire system. To the extent that police activities increase or decrease, court filings increase or decrease, or resource allocation changes are made, the average length of stay in our correctional facilities, the ability to keep criminals off our streets, and other activities can be profoundly affected. Despite the implementation of these new revenues, Miami-Dade County continues to fund the vast majority of the criminal justice system, which includes funding for court-related activities. For FY 2004-05, the support for the criminal justice system from the County's general fund totaled approximately \$675 million.

As mentioned above, as part of the implementation of Revision 7, municipalities were held harmless, continuing to receive fine and forfeiture revenues related to cases for which the municipality is the initiating jurisdiction. For Miami-Dade County, the unincorporated municipal service area (UMSA) serves as the initiating jurisdiction for a significant number of cases. Fines and forfeitures revenues associated with these cases in the amount of \$7.537 million for FY 2004-05 were budgeted as revenue to the general fund to support law enforcement activities. During this last legislative session, it was clarified that although UMSA is considered a municipality, these revenues would accrue to the clerks and state general revenue rather than to Miami-Dade County. This revenue had been held in escrow

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beginning July 1, 2004 and will now be unavailable to the County for the current fiscal year, reducing the projected revenues to the general fund.

There are two surcharges now authorized by the State Legislature (HB 1935). The first, in the amount of \$85, would be imposed upon an individual convicted or found guilty of any felony, misdemeanor, or criminal traffic offense. Examples of these types of crimes include but are not limited to murder, theft, driving under the influence, leaving the scene of an accident, and fleeing a police officer. A second surcharge, in the amount of \$15, would be imposed upon an individual convicted or found guilty of a civil traffic offense, such as speeding, running a stop sign or red light, and failure to yield to another vehicle.



Assistant County Manager

fiscal05005



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez **DATE:**
and Members, Board of County Commissioners

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor

Agenda Item No.

Veto _____

Override _____

ORDINANCE NO. _____

ORDINANCE RELATING TO THE COURTS; CREATING SECTIONS 11-13 AND 11-14 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA IMPOSING ADDITIONAL SURCHARGES ON CERTAIN CRIMES AND TRAFFIC OFFENSES AND VIOLATIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Chapter 11, Article I, of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

CHAPTER 11

COURTS

* * *

ARTICLE I. IN GENERAL

* * *

>>Sec. 11-13. Additional surcharge in criminal proceedings.

In addition to any other fine, penalty, or cost imposed by any other provision of law, an eighty-five dollar (\$85.00) surcharge is hereby imposed upon any conviction, plea of nolo contendere or finding of guilt, regardless of whether adjudication is withheld, for each felony, misdemeanor, or criminal traffic offense. The court shall not waive this court cost. The Clerk of the Court

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

shall collect the eighty-five dollar (\$85.00) surcharge established in this section and shall remit it to Miami-Dade County.

Sec. 11-14. Additional civil traffic infraction surcharge.

In addition to any other fine, penalty, or cost imposed by any other provision of law, a fifteen dollar (\$15.00) surcharge is hereby imposed upon any conviction or finding of guilt, regardless of whether adjudication is withheld, on each civil traffic infraction referenced in section 318.14, Florida Statutes, as amended from time to time. The court shall not waive this surcharge. The Clerk of the Court shall collect the fifteen dollar (\$15.00) surcharge established in this section and shall remit it to Miami-Dade County.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective July 1, 2005 unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Jess M. McCarty

Sponsored by Commissioner Sally A. Heyman and
the Clerk of the Court