

# MEMORANDUM

Agenda Item No. 11(A)(17)

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**TO:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

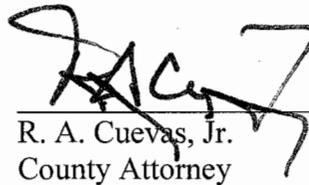
**DATE:** March 17, 2009

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

**SUBJECT:** Resolution urging the  
Legislature to impose  
mandatory minimum  
terms of imprisonment  
of at least two years for  
all crimes related to  
marijuana grow houses

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/up



**MEMORANDUM**  
(Revised)

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and Members, Board of County Commissioners

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County Attorney

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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 Mayor'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  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(17)  
3-17-09

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

RESOLUTION URGING THE FLORIDA LEGISLATURE TO  
IMPOSE MANDATORY MINIMUM TERMS OF  
IMPRISONMENT OF AT LEAST TWO YEARS FOR ALL  
CRIMES RELATED TO MARIJUANA GROW HOUSES

**WHEREAS**, according to the Florida Department of Law Enforcement (FDLE), seizures of marijuana plants from the indoor cultivation of marijuana, also known as marijuana grow houses, currently outpaces seizures from outdoor marijuana growing operations; and

**WHEREAS**, investigative intelligence indicates that marijuana cultivators continue to move indoors to avoid detection and to increase the quality of the marijuana being produced; and

**WHEREAS**, marijuana grow houses also allow the cultivators to artificially induce as many as four growing seasons per year as opposed to one season limited by nature in outdoor grow operations; and

**WHEREAS**, in 2007, law enforcement dismantled over 944 marijuana grow houses in Florida, resulting in the destruction of almost 75,000 marijuana plants, which is twice the number of plants eradicated in 2006; and

**WHEREAS**, while some marijuana grow houses are small and simple, others are more complex and highly organized, with the Miami-Dade Police Department recently finding one marijuana grow house that had more than 850 plants; and

**WHEREAS**, marijuana grow houses present an increasing problem in our community that is requiring more law enforcement resources; and

**WHEREAS**, law enforcement has encountered situations where people arrested in connection with marijuana grow houses have served minimal sentences; and

**WHEREAS**, whether large or small in size, marijuana grow houses present dangers to their neighbors; and

**WHEREAS**, during the 2008 session, the Florida Legislature passed CS/HB 173, Chapter 2008-184, Laws of Florida, which strengthened laws specifically related to marijuana grow houses in section 893.1351, Florida Statutes, and made it a:

- a. A first-degree felony to be in actual or constructive possession of a place, structure, trailer, or conveyance with the knowledge that it is being used to grow or cultivate marijuana intended for sale or distribution to another if the person knew or should have known that a minor is present or resides in the place, structure, trailer, or conveyance;
- b. A second-degree felony to knowingly be in actual or constructive possession of any place, structure, trailer or conveyance with the knowledge that it will be used for the purpose of trafficking in, the sale of or the growing or cultivating of marijuana or other controlled substance intended for sale or distribution to another;
- c. A third-degree felony to own, as well as lease or rent, any place, structure, trailer, or conveyance with the knowledge that it will be used for the purpose of trafficking or the manufacturing of a controlled substance intended for sale or distribution to another; and

**WHEREAS**, CS/HB 173 also provided that proof of the possession of 25 or more cannabis plants constitutes prima facie evidence that the cannabis is intended for sale or distribution; and

**WHEREAS**, while CS/HB 173 provided that crimes related to a marijuana grow house is a felony, it did not provide for mandatory minimum terms of imprisonment related to marijuana grow houses; and

**WHEREAS**, existing Florida law does impose mandatory minimum terms of imprisonment for cultivating or growing cannabis:

- a. A 3 year mandatory minimum sentence if the cannabis is between 25 and 2,000 pounds, or involves between 300 and 2,000 cannabis plants;
- b. A 7 year mandatory minimum sentence if the cannabis is between 2,000 and 10,000 pounds, or involves between 2,000 and 10,000 cannabis plants;
- c. A 15 year mandatory minimum sentence if the cannabis is more than 10,000 pounds, or is more than 10,000 cannabis plants; and

**WHEREAS**, while these mandatory minimum terms of imprisonment for cultivating or growing cannabis address many crimes related to marijuana grow houses, mandatory minimum terms of imprisonment do not apply to *all* crimes related to marijuana grow houses, specifically those set forth in section 893.1351; and

**WHEREAS**, mandatory minimum terms of imprisonment of at least two years should apply to all crimes related to marijuana grow houses,

**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 impose mandatory minimum terms of imprisonment of at least two years for all crimes related to marijuana grow houses.

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

Section 3. Directs the County's state lobbyists to advocate for the legislation set forth in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2009 and 2010 State Legislative Packages to include this item.

The Prime Sponsor of the foregoing resolution is Senator Javier D. Souto. 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:

Dennis C. Moss, Chairman	
Jose "Pepe" Diaz, Vice-Chairman	
Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 17<sup>th</sup> day of March, 2009. 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: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Jess M. McCarty