

MEMORANDUM

Agenda Item No. 11(A)(16)

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

DATE: March 1, 2011

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

SUBJECT: Resolution urging the Florida
Legislature to impose a
minimum term of five (5)
years imprisonment for a
convicted felon in possession
of a firearm

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM
(Revised)

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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 Manager'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)(16)
3-1-11

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
IMPOSE A MINIMUM TERM OF FIVE (5) YEARS
IMPRISONMENT FOR A CONVICTED FELON IN
POSSESSION OF A FIREARM

WHEREAS, section 790.23, Florida Statutes, makes it unlawful for a convicted felon to own or have in his or her care, custody, possession or control any firearm, ammunition, or electric weapon or device or to carry a concealed weapon, including a tear gas gun or chemical weapon or device (collectively “a convicted felon in possession of a firearm”); and

WHEREAS, Florida law provides that it is a second degree felony for a convicted felon to possess a firearm or otherwise violate section 790.23; and

WHEREAS, second degree felonies in Florida carry a term of imprisonment of not to exceed 15 years; and

WHEREAS, section 790.23 also provides that if the convicted felon found to be in possession of a firearm currently qualifies or has previously qualified for penalty enhancements for gang-related offenses, then the offense is enhanced to a first-degree felony subject to life in prison; and

WHEREAS, section 775.087, Florida Statutes, provides for a three (3) year mandatory minimum sentence for the possession of a firearm by a convicted felon,

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 state law to impose a minimum term of imprisonment of five (5) years for a convicted felon in possession of a firearm.

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 that the 2011 and 2012 State Legislative Packages be amended to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz. 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:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

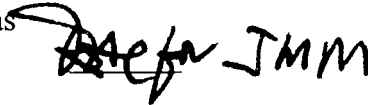
The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of March, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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.

A handwritten signature in black ink, appearing to read "JMM", with a large, sweeping flourish above it that extends to the left and underlines the text "to form and legal sufficiency."

Jess M. McCarty