

MEMORANDUM

Agenda Item No. 11(A)(17)

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
mandatory minimum sentence
of 20 years imprisonment
when a law enforcement
officer is the victim of
aggravated assault or
aggravated battery with 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



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(Revised)

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

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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)(17)
3-1-11

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
IMPOSE A MANDATORY MINIMUM SENTENCE OF 20
YEARS IMPRISONMENT WHEN A LAW ENFORCEMENT
OFFICER IS THE VICTIM OF AGGRAVATED ASSAULT OR
AGGRAVATED BATTERY WITH A FIREARM

WHEREAS, there are a number of existing statutes in Florida that enhance penalties for crimes against law enforcement officers and crimes involving the use of firearms; and

WHEREAS, the Law Enforcement Protection Act, section 775.0823, Florida Statutes (“LEPA”), contains a list of specified offenses including murder, kidnapping, aggravated battery and aggravated assault for which a multiplier must be applied at sentencing when the offense is committed against a law enforcement officer, correctional officer, state attorney or judge; and

WHEREAS, the intent of LEPA is to impose increased penalties by the use of a 1.5 to 2.5 multiplier in an effort to protect law enforcement officers and other government officials charged with enforcing, prosecuting and judging criminal activity when they are acting in an official capacity; and

WHEREAS, in addition to LEPA, section 784.07, Florida Statutes, reclassifies an aggravated assault or aggravated battery against a law enforcement officer, judge, prosecutor or firefighter from a third degree felony carrying a maximum term of imprisonment of five (5) years to a second degree felony carrying a maximum term of imprisonment of fifteen (15) years and creates a mandatory minimum sentence of five (5) years for an aggravated battery on a law enforcement officer and a mandatory minimum sentence of three (3) years for an aggravated assault on a law enforcement officer, regardless of whether a weapon is used; and

WHEREAS, in 1999, the Florida Legislature passed HB 113 (Chapter 99-12, Laws of Florida), commonly known as “10-20-Life”, which imposes a 10-year mandatory minimum prison sentence for displaying a gun during a crime, a 20-year mandatory minimum prison sentence for discharging a gun during a crime, and a mandatory minimum prison sentence of 25 years to life for killing or injuring a victim, whether or not the victim is a law enforcement officer; and

WHEREAS, in 2008, the Florida Legislature passed HB 321 (Chapter 2008-74, Laws of Florida), that created section 782.065; and

WHEREAS, unless the defendant is sentenced to death, HB 321 imposes a sentence of life imprisonment without eligibility for early release for murder or attempted murder when the victim of the offense is a law enforcement officer, part-time law enforcement officer, or auxiliary law enforcement officer engaged in the lawful performance of a legal duty; and

WHEREAS, HB 321 imposes a mandatory life sentence without eligibility for parole only in the case of murder or attempted murder of a law enforcement officer; and

WHEREAS, HB 321 did not address aggravated battery or aggravated assault with a firearm when the victim is a law enforcement officer; and

WHEREAS, under section 775.087, Florida Statutes, there is currently a mandatory minimum sentence of three (3) years for aggravated battery or aggravated assault with a firearm, regardless of whether the victim is a law enforcement officer; and

WHEREAS, Florida law should be amended to provide the highest level of protection to law enforcement officers who are protecting the public; and

WHEREAS, the Florida Legislature should impose a 20-year mandatory minimum sentence for aggravated battery or aggravated assault with a firearm when the victim is a law enforcement officer,

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 mandatory minimum sentence of 20 years imprisonment when a law enforcement officer is the victim of aggravated assault with a firearm or aggravated battery with 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	

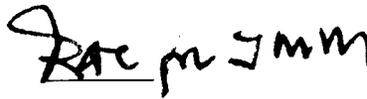
The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of March, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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.



Jess M. McCarty