

MEMORANDUM

Agenda Item No. 11(A)(17)

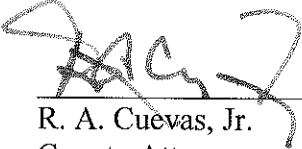
TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: January 23, 2013

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

SUBJECT: Resolution urging the Florida
Legislature to enact legislation
increasing the penalty for
possession of an AK-47 or other
semi-automatic assault weapon
during the commission of a
felony from 15 to 25 years

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan and Co-Sponsor Commissioner Sally A. Heyman.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: January 23, 2013

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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 Mayor'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)
1-23-13

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION INCREASING THE PENALTY FOR POSSESSION OF AN AK-47 OR OTHER SEMI-AUTOMATIC ASSAULT WEAPON DURING THE COMMISSION OF A FELONY FROM 15 TO 25 YEARS

WHEREAS, in what has been described as the worst mass shooting in U.S. history, in July, 2012, a gunman opened fire in a crowded movie theatre in Aurora, Colorado with an AR-15 assault rifle with a 100-round magazine, killing 12 people and injuring another 59 people; and

WHEREAS, in January, 2009, a gunman opened fire on a crowd of about 50 people who had gathered at the corner of NW 71st Street and 15th Avenue in Miami, killing two people and wounding nine others; and

WHEREAS, witnesses described the firearm used as large assault weapon, like an AK-47; and

WHEREAS, the incident followed the September 13, 2007 tragic shooting of four Miami-Dade Police Officers, including the death of one such officer, Officer Jose Somohano, all arising out of a traffic stop in south Miami-Dade County; and

WHEREAS, on January 8, 2008, Miami Police Department Detective James Walker was shot and killed by an AK-47 when he attempted to take police action while off duty; and

WHEREAS, in 2009 there were 6 deaths in Miami-Dade County with the use of assault weapons, in 2010 there were 11 such deaths, and in 2011 there were 11 such deaths, according to the Miami-Dade Police Department; and

WHEREAS, so far in 2012, there have been 10 deaths in Miami-Dade County with the use of assault weapons, according to the Miami-Dade Police Department; and

WHEREAS, these incidents and statistics indicate that the current penalties for crimes involving firearms are not adequate to act as a deterrent to gun violence; and

WHEREAS, Florida ranks among the most violent states in the nation, and also has some of the most lenient gun laws in the nation; and

WHEREAS, criminals who use firearms during the commission of violent crimes pose increased danger to the lives, health and safety of our community's residents and law enforcement officers who daily put their lives on the line to protect the community from violent criminals; and

WHEREAS, in 1999, the Florida Legislature enacted the "10-20-Life" bill, Chapter 99-12, Laws of Florida (HB 113), which imposed a mandatory minimum 10-year prison term for any person who possesses a firearm at any time during the course of an enumerated offense; a mandatory minimum 20-year prison term if the offender discharges a firearm during the course of one of the enumerated felonies; and a 25-year to life sentence if the firearm is discharged causing death or great bodily harm; and

WHEREAS, the enumerated felonies consist of the following:

- Murder;
- Sexual battery;
- Robbery;
- Burglary;
- Arson;
- Aggravated assault;
- Aggravated battery;
- Kidnapping;
- Escape;
- Aircraft piracy;
- Aggravated child abuse;

- Aggravated abuse of an elderly person or disabled adult;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Carjacking;
- Home-invasion robbery;
- Aggravated stalking;
- Trafficking in cannabis, cocaine and other controlled substances; and
- Possession of a firearm by a felon; and

WHEREAS, Chapter 99-12 also increased the penalty for possession of a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun during the course of one of these felonies from 8 years to 15 years; and

WHEREAS, section 921.0024, Florida Statutes, provides for increased sentences for possession of a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun during the course of one of the felonies listed above; and

WHEREAS, existing penalties have not been successful at curtailing the use of assault weapons; and

WHEREAS, stronger penalties are needed to combat gun violence with assault weapons; and

WHEREAS, there is no civilian, non-law enforcement purpose for AK-47s and other semi-automatic assault weapons; and

WHEREAS, these weapons are possessed, carried and used with an intent to kill; and

WHEREAS, the minimum mandatory penalty for possession of a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun during the course of an enumerated felony should be increased from 15 years to 25 years,

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 enact legislation increasing the penalty for possession of an AK-47 or other semi-automatic assault weapon during the commission of a felony from 15 to 25 years.

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 2013 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan and the Co-Sponsor is Commissioner Sally A. Heyman. 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:

- | | |
|----------------------|-------------------------|
| | Rebeca Sosa, Chairwoman |
| | Lynda Bell, Vice Chair |
| Bruno A. Barreiro | Esteban L. Bovo, Jr. |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Sally A. Heyman | Barbara J. Jordan |
| Jean Monestime | Dennis C. Moss |
| Sen. Javier D. Souto | Xavier L. Suarez |
| Juan C. Zapata | |

The Chairperson thereupon declared the resolution duly passed and adopted this 23rd day of January, 2013. 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