MEMORANDUM

Agenda Item No. 7(A)

(Second Reading 11-5-14)

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

DATE: September 3, 2014

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

SUBJECT: Ordinance amending Chapter 11A, Articles I, II, III, IV and VI of the Code of Miami-Dade County to prohibit discrimination based on status as a victim of domestic violence, dating violence; or stalking; correcting scrivener errors in Sections 11A-12 and 11A-13 of the Code to include source of income as a protected classification in housing

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan, Chairwoman Rebeca Sosa, Vice Chair Lynda Bell, and Co-Sponsors Commissioner Jose "Pepe" Diaz, Commissioner Audrey M. Edmonson and Commissioner Dennis C. Moss.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: November 5, 2014

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance on Domestic Violence and Anti-Discrimination

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The proposed ordinance amends Chapter 11A, Articles I, II, III, IV and VI of The Code of Miami-Dade County to prohibit discrimination based on status as a victim of domestic violence, dating violence or stalking and corrects scrivener errors in Sections 11A-12 and 11A-13 of the Code to include source of income as a protected classification in housing. Implementation of this ordinance will not have a fiscal impact to the County.

Russell Benford
Deputy Mayor

Fis9914

MEMORANDUM
(Revised)

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

DATE: November 5, 2014

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

SUBJECT: Agenda Item No. 7(A)

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. 7(A)
11-5-14

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 11A, ARTICLES I, II, III, IV AND VI OF THE CODE OF MIAMI-DADE COUNTY TO PROHIBIT DISCRIMINATION BASED ON STATUS AS A VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE; OR STALKING; CORRECTING SCRIVENER ERRORS IN SECTIONS 11A-12 AND 11A-13 OF THE CODE OF MIAMI-DADE COUNTY TO INCLUDE SOURCE OF INCOME AS A PROTECTED CLASSIFICATION IN HOUSING; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, it is the policy of Miami-Dade County, in the exercise of its police power for the public safety, health and general welfare, to eliminate and prevent discrimination in employment, family leave, public accommodations, credit and financing practices, and housing accommodations because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status or sexual orientation or housing discrimination based on source of income; and

WHEREAS, this Board passed the Domestic Leave Ordinance, Ordinance 99-5 codified at 11A-60 et. seq. of the Miami-Dade County Code, on January 21, 1999; and

WHEREAS, domestic violence, dating violence and stalking affects individuals of various racial, economic, educational, religious background, in heterosexual and same-sex relationships, living together or separately, married or unmarried, in short-term or long-term relationships; and

WHEREAS, perpetrators frequently seek to control their spouses or partners by actively interfering with, for example, their ability to work and live in their homes; and

WHEREAS, victims of domestic violence, dating violence or stalking typically do not ask for assistance, due to embarrassment, shame, fear of job loss, eviction or other adverse actions; and

WHEREAS, meanwhile, nearly three-quarters of abused women have been harassed at work and twenty percent (20%) of homeless women say the primary reason they lack housing is because of domestic violence; and

WHEREAS, a 2005 national survey conducted by the Corporate Alliance to End Partner Violence found that 21% of full-time employed adults were victims of domestic violence; and

WHEREAS, according to the U.S. Centers for Disease Control and Prevention (CDC), intimate partner violence victims loose a total of nearly 8 million days of paid work a year - the equivalent of more than 32,000 full-time jobs, and the cost of domestic violence to the U.S. economy is more than $5.8 billion; and

WHEREAS, according to the Florida Department of Law Enforcement. in 2013, there were 108,030 reported domestic violence offences in the state of Florida, and 9953 of these incidents, including 18 domestic related deaths, occurred in Miami-Dade County; and

WHEREAS, there is currently no general law in the State of Florida specifically prohibiting discrimination against persons who are victims of domestic violence, dating violence or stalking; and

WHEREAS, this Board, in the exercise of its police powers for the public safety, health and general welfare, to eliminate and prevent discrimination in employment, family leave, public accommodations, credit and financing practices, and housing accommodations based on actual or perceived status as a victim of domestic violence, dating violence or stalking,

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

Section 1. Section 11A-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

ARTICLE I. - GENERAL PROVISIONS

Sec. 11A-1. Declaration of policy and scope.

(1) *Policy.* It is hereby declared to be the policy of Miami-Dade County, in the exercise of its police power for the public safety, health and general welfare, to eliminate and prevent discrimination in employment, family leave, public accommodations, credit and financing practices, and housing accommodations because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status>>,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking.<< It is further hereby declared to be the policy of Miami-Dade County to eliminate and prevent discrimination in housing based on source of income.

* * *

Section 2. Section 11A-2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 11A-2. Definitions.

The definitions set out herein shall apply to articles II, III, IV and V:

* * *

(8) *Discrimination* shall mean any difference, distinction or preference in treatment, access or impact because of race, color, religion, ancestry, national origin, sex, pregnancy,

[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.

age, disability, marital status, familial status, sexual orientation, [[~~or~~]] source of income>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking.<<

* * *

>>(22) Victim of domestic violence shall mean a person who has been subjected to acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

(23) Victim of dating violence shall mean a person who has or had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

(a) A dating relationship must have existed within the past six (6) months;

(b) The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and

(c) The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

(24) Victim of stalking shall mean a victim of acts which constitute are deemed under Florida Law to be willful, malicious, and repeated following, harassing, or cyber stalking of another person, and/or the making of a credible

threat with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent.<<

Section 3. Section 11A-12 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

ARTICLE II. - HOUSING

* * *

Sec. 11A-12. **Unlawful housing practices.**

(1) *Discrimination in sale or rental of housing and other prohibited practices.* It shall be unlawful for any person, owner, financial institution, real estate broker, real estate agent or any representative of the above to engage in any of the following acts because of race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status>>,<< [[~~or~~]] sexual orientation>>, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking.<< of a prospective buyer, renter, lessee.

* * *

(j) To directly or indirectly induce or attempt to induce for profit, the sale, purchase, rental, lease or the listing for any of the above, of any dwelling by representing that the presence or anticipated presence of a person of a particular race, color, religion, national origin, age, sex, disability, familial status, marital status>>,<< [[~~or~~]] sexual orientation>>, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking.<< will or may result in blockbusting, such as but not limited to:

(i) The lowering of property values in the area;

(ii) An increase in criminal or anti-social behavior in the area; or

(iii) A decline in the quality of the schools or other services or facilities in the area; or

* * *

Section 4. Section 11A-13 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

* * *

(6) *Furnishing appraisals.* Nothing in this article prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, disability, familial status, marital status, national origin >>,<< [[~~or~~]] sexual orientation>>, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking.<<.

* * *

Section 5. Section 11A-19 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

ARTICLE III. - PUBLIC ACCOMMODATIONS

Sec. 11A-19. Unlawful public accommodations practices.

It shall be an unlawful practice for any person to engage in any of the following acts because of the race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status >>,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking.<< of any individual or of any person associated with that individual:

* * *

Section 6. Section 11A-22 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 11A-22. Exceptions to unlawful public accommodations practices.

* * *

(5) Nothing in this article shall apply with respect to a religious organization, association, society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with any such group, from limiting its goods, facilities, services, privileges or advantages to persons of the same religion or from giving preference to any such person, however, that religious organization, association or society shall not restrict membership based on race, color, national origin, ancestry, sex, pregnancy, age, marital status, familial status>>,<< [[~~or~~]] disability>>,or actual or perceived status as a victim of domestic violence, dating violence or stalking.<<. Furthermore, nothing in this article relating to unlawful public accommodation practices based on sexual orientation shall pertain to any religious organization, association, society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

* * *

Section 7. Section 11A-26 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

ARTICLE IV. - EMPLOYMENT

Sec. 11A-26. - Unlawful employment practices.

(1) It shall be unlawful for any employer to engage in any practices described below on account of the race, color, religion, ancestry, sex, pregnancy, national origin, age, disability, marital status, familial status >>,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<< of any individual or any person associated with such individual:

* * *

(2) It shall be unlawful for any employment agency or company providing employees to engage in any of the practices described below on account of any individual's race, color, religion, ancestry, national origin, age, sex,

pregnancy, disability, marital status, familial status >>,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<<:

* * *

(3) It shall be an unlawful employment practice for a labor organization to engage in any of the practices described below on account of any individual's race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status >>,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<<:

* * *

(5) Exemptions to unlawful employment practices.

(a) Notwithstanding any other provision of this article it shall not be an unlawful employment practice:

(i) For a school, college, university, or other educational institution or institution of learning to hire and employ individuals of a particular religion if: such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of such school, college, university or other educational institution of learning is directed toward the propagation of a particular religion and; the employment opportunity sought by the employee or applicant is directly or indirectly related propagating that religion.

(ii) For an employer to hire and employ individuals, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for

an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his or her religion, sex or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. Additionally, nothing in this article shall apply with respect to a religious organization, association, society or any not for profit institution or organization operated, supervised or controlled by or in conjunction with any religious organization from limiting its employment to persons of the same religion or from giving preference to any such person; however, that religious organization, association or society shall not restrict membership based on race, color, national origin, ancestry>>,<< [[~~or~~]] disability>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<<. Furthermore, nothing in this article relating to unlawful employment practices based on sexual orientation shall pertain to any religious organization, association, society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

(iii) For any employer to apply different standards of compensation, or different terms, conditions, benefits, privileges of employment pursuant to a bona fide, written seniority or merit system or piece-work system or a system which measures earnings by quantity provided that such difference does not discriminate because of race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status >>,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of

domestic violence, dating violence or stalking<<.

(iv) For an employer or employment agency or representative of either to give or to act upon the results of any professionally validated ability test provided that such test, its administration or action upon the result is not designed, intended or used to discriminate because of race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status>>,familial status,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<<.

(b) Nothing contained in this article shall apply to any business or enterprise on or near an Indian Tribe reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he or she is an Indian living on or near a reservation.

(c) Nothing contained in this article shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, pregnancy, national origin, ancestry, age, disability, marital status, familial status>>,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<< of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, pregnancy, national origin, ancestry, age, disability, marital status, familial status >>,<< [[~~or~~]] sexual orientation>>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<< in any community, section or other area of the county or in the available work force in any community, section or other area of the county.

Section 8. Section 11A-34 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

ARTICLE VI. - OFFICE OF FAIR EMPLOYMENT PRACTICES

Sec. 11A-34. Declaration of policy.

(1) It has been and is the policy of Miami-Dade County to provide equal employment opportunity for all without regard to race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation >.,<<[[~~or~~]] veteran's status >>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<< and to prohibit unlawful discrimination on such basis.

(2) It is further the policy of Miami-Dade County to ensure equal opportunity within the County employment system by engaging in voluntary affirmative action to promote diversity within the County work force and employ a representative work force. However, nothing in this section shall be interpreted to require the County to grant preferential treatment to any individual because of sexual orientation.

Section 9. Section 11A-35 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 11A-35. Definitions.

When used herein:

(a) *Affirmative action* shall mean a program to ensure equal employment opportunity and treatment for all qualified individuals without regard to race, color, religion, national origin, age, disability, sex, marital status, pregnancy, >.,<<[[~~or~~]] veteran's status >>, or actual or perceived status as a victim of domestic violence, dating violence or stalking<<, and to every extent possible, eliminate areas of underutilization in employment of minorities, women and persons with disabilities. However, nothing in this section

shall be interpreted to require the County to grant preferential treatment to any individual because of sexual orientation.

(b) *Office* shall mean the Miami-Dade County Office of Fair Employment Practices [[~~, a division of the Office of the County Manager~~]].

Section 10. 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 11. 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 12. This ordinance shall become effective ten (10) days after the date of enactment 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:

Terrence A. Smith

Co-Prime Sponsors: Commissioner Sally A. Heyman
Commissioner Barbara J. Jordan
Chairwoman Rebeca Sosa
Vice Chair Lynda Bell

Co-Sponsors: Commissioner Jose "Pepe" Diaz
Commissioner Audrey M. Edmonson
Commissioner Dennis C. Moss