

MEMORANDUM

Agenda Item No. 11(A)(26)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: January 21, 2015

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

SUBJECT: Resolution urging the Florida
Legislature to enact legislation
increasing the penalty for
possession or discharge of
semiautomatic assault weapons
during the commission of certain
felonies to 25 years

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



R. A. Cuevas, Jr.
County Attorney

RAC/Imp



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

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SUBJECT: Agenda Item No. 11(A) (26)

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

Agenda Item No. 11(A)(26)

Veto _____

1-21-15

Override _____

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION INCREASING THE PENALTY FOR POSSESSION OR DISCHARGE OF SEMIAUTOMATIC ASSAULT WEAPONS DURING THE COMMISSION OF CERTAIN FELONIES TO 25 YEARS

WHEREAS, a semiautomatic firearm is a firearm capable of firing a series of rounds by successive depressions of the firearm's trigger; and

WHEREAS, a semiautomatic assault weapon refers to a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun; and

WHEREAS, semiautomatic assault weapons have been linked to mass shootings across the U.S., including the tragedies in Aurora, Colorado and Newtown, Connecticut; and

WHEREAS, in January 2009, a gunman opened fire, using an AK-47 assault weapon, on a crowd of 50 people who were playing dominoes at the corner of NW 71st Street and 15th Avenue in Miami, killing two people and wounding nine others; and

WHEREAS, in June 2014, nine blocks from the January 2009 shooting, two men using semiautomatic assault weapons opened fire on a group of individuals on NW 65th Street and 12th Avenue in Miami, killing two people and wounding seven others; 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 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, Chapter 99-12 also provides for a 15-year minimum mandatory prison term for possession of a semiautomatic assault weapon during the commission of a list of enumerated felonies; a 20-year minimum mandatory prison term for discharging a semiautomatic assault weapon during the commission of a list of enumerated felonies; and a 25-year to life sentence if the discharged semiautomatic assault weapon causes death or great bodily harm to any person during the course of the felony; and

WHEREAS, the minimum mandatory penalties detailed in Chapter 99-12 apply even if the semiautomatic firearm was not an element of the felony; and

WHEREAS, the enumerated felonies consist of the following:

- Murder;
- Sexual battery;
- Robbery;
- Burglary;
- Arson;
- Aggravated assault;
- Aggravated battery;
- Kidnapping;
- Escape;
- Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;
- Aircraft piracy;
- Aggravated child abuse;
- Unlawful throwing, placing, or discharging or a bomb;
- Carjacking;
- Home invasion robbery;
- Aggravated stalking;
- Trafficking in cannabis, cocaine, and other controlled substances; and

WHEREAS, Florida ranks among the most violent states in the nation; and

WHEREAS, the killers in more than half of all mass shootings over the last 30 years possessed assault weapons, firearms with high-capacity magazines, or both at the scene of the crime; and

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

WHEREAS, there is no civilian, non-law enforcement purpose for AK-47s and other semiautomatic assault weapons; 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 put their lives at risk on a daily basis; 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, these weapons are possessed, carried, and used with an intent to kill; and

WHEREAS, the minimum mandatory penalty for possession or discharge of a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun during the course of certain enumerated felonies should be increased 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 or discharge of semiautomatic assault weapons during the commission of certain felonies 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 2015 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. 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:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of January, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.

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Javier Zapata