

MEMORANDUM

Agenda Item No. 7(B)

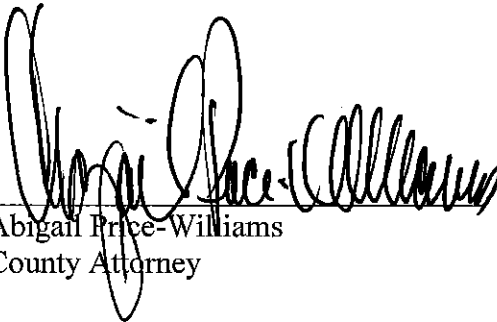
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: (Second Reading 3-7-17)
January 24, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to a
surcharge in criminal
proceedings; amending section
11-13 of the Code; clarifying an
exception for indigent
defendants

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsors Commissioner Daniella Levine Cava Vice Chairwoman Audrey M. Edmonson, Commissioner Barbara J. Jordan and Senator Javier D. Souto.

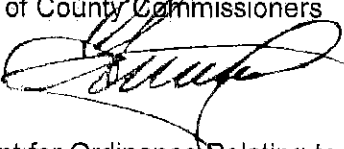


Abigail Price-Williams
County Attorney

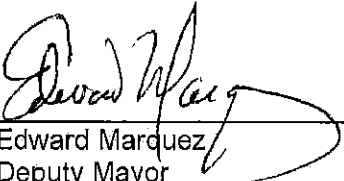
APW/lmp

Memorandum



Date: March 7, 2017
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners
From: Carlos A. Gimenez 
Mayor
Subject: Fiscal Impact Statement for Ordinance Relating to Criminal Proceedings

The proposed ordinance relating to a surcharge in criminal proceedings amends section 11-13 of the Code of Miami-Dade County to clarify an exception for indigent defendants. The implementation of this ordinance would only have a fiscal impact if indigent defendants are currently paying fines.


Edward Marquez
Deputy Mayor

Fis01817 162965

Memorandum



Date: March 7, 2017

To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

Subject: Social Equity Statement for Ordinance Amending Section 11-13 of the Code Clarifying
an Exception for Indigent Defendants

The proposed Ordinance amends Section 11-13 of the County Code clarifying an exemption for indigent defendants.

There is currently an eighty-five dollar (\$85.00) surcharge imposed on any conviction, plea of nolo contendere or finding of guilt for felony, misdemeanor and traffic offenses. This Code change clarifies that the surcharge shall not be imposed if the court finds that the defendant is indigent. This clarification of policy will not cause any specific benefits or burdens on the community.

A handwritten signature in black ink, appearing to read "Edward Marquez", written over a horizontal line.

Edward Marquez
Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: March 7, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(B)

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
- Statement of social equity 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(B)
3-7-17

ORDINANCE NO. _____

ORDINANCE RELATING TO A SURCHARGE IN CRIMINAL PROCEEDINGS; AMENDING SECTION 11-13 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CLARIFYING AN EXCEPTION FOR INDIGENT DEFENDANTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, Section 11-13 of the Code of Miami-Dade County imposes an \$85 surcharge in addition to other fines, penalties or costs assessed on a defendant upon any conviction, plea of nolo contendere or finding of guilt for each felony, misdemeanor, or criminal traffic offense; and

WHEREAS, Section 11-13 contains an exception on the imposition of the surcharge when the court makes a determination that the defendant is indigent; and

WHEREAS, an amendment to Section 11-13 to further clarify this exemption would assist the Court and the Clerk of the Courts in properly administering this Board's policy,

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

Section 1. Section 11-13 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 11-13. - Additional surcharge in criminal proceedings.

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.

imposed upon any conviction, plea of nolo contendere or finding of guilt regardless of whether adjudication is withheld, for each felony, misdemeanor, or criminal traffic offense. The court shall not waive this ~~[[court cost]]~~ >>surcharge unless the court finds that the defendant is indigent, in which case the court shall not impose this surcharge on such indigent defendant<<. The Clerk of the Court shall collect~~[[, unless there has been a determination of indigency,]]~~ the eighty-five dollar (\$85.00) surcharge established in this section and shall remit it to Miami-Dade County.

Section 2. 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 3. 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 4. 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:

APW

Prepared by:

OR

Oren Rosenthal

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsors: Commissioner Daniella Levine Cava
Vice Chairwoman Audrey M. Edmonson
Commissioner Barbara J. Jordan
Senator Javier D. Souto