

MEMORANDUM

PSHC
Agenda Item No. 1G1

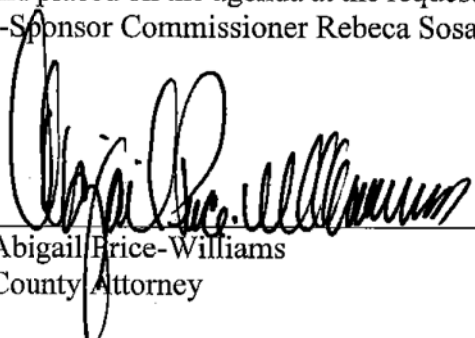
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: January 18, 2018

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to animals; amending sections 5-5 and 8CC-10 of the Code; prohibiting adoption of animals from the County's pet adoption and protection center by individuals adjudicated of committing certain animal-related offenses; clarifying animal services department director's discretion to refuse adoption or transfer for other reasons to protect health, safety, or welfare of people or animals; providing for appeal of adoption or transfer refusal; directing County Mayor to coordinate with the Clerk of Courts and the Miami-Dade County State Attorney's Office regarding information on animal-related offenses and to report to the Board within a specified time frame; providing for enforcement by civil penalty

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava and Co-Sponsor Commissioner Rebeca Sosa.



Abigail Price-Williams
County Attorney

APW/cp

Memorandum



Date:

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: Fiscal Impact Statement for Ordinance Relating To Prohibiting The Adoption Of Animals
By Individuals Adjudicated Of Committing Certain Animal-Related Offenses

The fiscal impact of the proposed ordinance will vary based on the methodology selected to implement the required screening of potential animal adopters. Regardless of the methodology selected, it is expected that the implementation of this ordinance will serve as a disincentive for members of the public to visit and adopt an animal at the Pet Adoption and Protection Center (Shelter).

One alternative available to the Animal Services Department (ASD) would be the implementation of a searchable database by the Information Technology Department (ITD). This database, which has yet to be developed, would serve as a web-based resource to help identify individuals with animal cruelty convictions. ASD employees would be able to use this database to run searches on potential adopters in order to identify whether or not they have been adjudicated of committing any one of the identified animal-related offenses. Based on preliminary estimates by ITD, the creation of this database will cost approximately \$50,000 with an annual maintenance cost of about \$8,000. If the proposed ordinance is adopted, the use of this method would not be immediate as ITD estimates that the design and implementation of this tool would take approximately 12 to 13 weeks.

Another alternative would be for the ASD to conduct background searches on potential adopters on an as needed basis through the Florida Department of Law Enforcement's (FDLE) Instant Criminal History Check. This search can be conducted online through FDLE's website at a cost of \$24 per search. If this alternative is chosen to satisfy the requirements of the proposed ordinance, the department's staff would conduct an instant search at the time a member of the public goes to pay the applicable adoption fee(s). If the cost of this fee is borne by the County, it would have a negative fiscal impact of approximately \$216,000 based on the 9,000 adoptions that are projected for FY 2017-18. If the \$24 fee is assessed on top of the existing adoption fee and charged to the adopters, it would increase the cost to adopt a dog younger than four (4) months by 32 percent from \$75 to \$99, a dog older than four (4) months from \$65 to \$89 by 37 percent, and kittens by 69 percent from \$35 to \$59.

The impact, beyond the cost of implementation of the searchable database and/or the cost per FDLE check, is still unknown. It is reasonable to expect a decrease in adoptions at the Shelter if the cost of each background check is borne by the adopter, as well as because the department will need to implement an additional screening during the adoption process which may increase staff's workload, and increase wait times, which could deter residents from completing the adoption.


Alina Hudak
Deputy Mayor

FIS02918 172437

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MEMORANDUM

(Revised)

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

DATE: November 7, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 4(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. 4(B)
11-7-17

ORDINANCE NO. _____

ORDINANCE RELATING TO ANIMALS; AMENDING SECTIONS 5-5 AND 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROHIBITING ADOPTION OF ANIMALS FROM THE COUNTY'S PET ADOPTION AND PROTECTION CENTER BY INDIVIDUALS ADJUDICATED OF COMMITTING CERTAIN ANIMAL-RELATED OFFENSES; CLARIFYING ANIMAL SERVICES DEPARTMENT DIRECTOR'S DISCRETION TO REFUSE ADOPTION OR TRANSFER FOR OTHER REASONS TO PROTECT HEALTH, SAFETY, OR WELFARE OF PEOPLE OR ANIMALS; PROVIDING FOR APPEAL OF ADOPTION OR TRANSFER REFUSAL; DIRECTING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO COORDINATE WITH THE CLERK OF COURTS AND THE MIAMI-DADE COUNTY STATE ATTORNEY'S OFFICE REGARDING INFORMATION ON ANIMAL-RELATED OFFENSES AND TO REPORT TO THE BOARD WITHIN A SPECIFIED TIME FRAME; PROVIDING FOR ENFORCEMENT BY CIVIL PENALTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, the humane treatment of animals is an important public purpose; and

WHEREAS, animal ownership carries with it both rights and responsibilities for the humane treatment, care, and control of owned animals; and

WHEREAS, this Board finds that animal cruelty is a serious problem, resulting in the abuse of many animals each year; and

WHEREAS, while the State of Florida has criminalized the cruel treatment of animals, animal cruelty continues to occur in Miami-Dade County and throughout the State of Florida; and

WHEREAS, section 828.073, Florida Statutes – which provides that a person who abuses an animal, whether through neglect or mistreatment, may be barred from owning other animals – recognizes the link between abuse of one animal and abuse of other animals; and

WHEREAS, studies have demonstrated that a strong correlation exists between individuals who abuse animals and incidents of domestic violence and that individuals who abuse animals are statistically more likely to commit violent acts against humans; and

WHEREAS, this Board has determined that it will serve the health, safety, and welfare of the residents and animals of Miami-Dade County for the County to maintain information regarding identifying individuals residing in the County who have been convicted of certain animal-related crimes or who have been enjoined from owning or possessing animals, so that the County can prevent animals in its care from being adopted by these offenders; and

WHEREAS, this Board also wishes to clarify the Animal Services Department Director's discretion to reject adoptions from the County's Pet Adoption and Protection Center to protect the health, safety, and welfare of people or animals and to specifically prohibit offenders from acquiring pets,

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

Section 1. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Section 5-5 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 5-5. - Adoption of animals from the department; >>discretion to refuse adoption or transfer; adoption or acquisition by offenders prohibited; appeal<< sterilization requirements; requirements for animal rescue organizations; authority to negotiate and enter into agreements.

(a) The Department shall encourage the adoption of animals in its custody. The Department may charge fees for transferring ownership of such animals and for vaccination, sterilization, and other medical care provided to such animals. Fees shall be fixed by implementing order approved by the Board of County Commissioners, provided that animal rescue organizations and other adopters acquiring ownership of animals may be charged reduced fees in accordance with this section.

>>(1) This section does not create a right in any person or a private right of action concerning the adoption of animals from the Department or any other provisions of this section. The Director may, in the Director's sole discretion, prohibit the adoption or transfer of an impounded animal to protect the health, safety, and welfare of the people and animals of the County.

(2) Prohibition on acquisition by offender. Offenders shall not adopt or otherwise acquire animals impounded by the Department or transferred to an animal rescue organization pursuant to this section, as provided herein.

(i) For purposes of this section, "offender" means any person who has been convicted or adjudicated delinquent, regardless of whether adjudication is withheld, of any of the following animal-related offenses:

1. Cruelty to animals under section 828.12, Florida Statutes;
2. Fighting or baiting animals under section 828.122, Florida Statutes;

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.

3. Killing a dog or cat with the intent to sell or give away its pelt under section 828.123, Florida Statutes;
 4. Killing or aggravated abuse of horse or cattle under section 828.125, Florida Statutes;
 5. Sexual activities involving animals under section 828.126, Florida Statutes; or
 6. Confinement of animals without sufficient food, water, or exercise under section 828.13, Florida Statutes;
 7. Being unable or unfit to adequately provide for an animal and being enjoined from further possession or custody of animals under section 828.073, Florida Statutes; or
 8. Designation as an "irresponsible dog owner," pursuant to section 5-23.2 of this chapter, based in whole or in part on the commission of an act deemed cruelty to animals.
- (ii) The prohibition on each offender shall remain in effect in accordance with the following schedule:
1. For a period of 3 years for a first conviction of a misdemeanor animal-related offense or first irresponsible dog owner designation;
 2. For a period of 5 years for a first conviction of a felony animal-related offense or a second or subsequent violation by an irresponsible dog owner;
 3. For a period of 10 years for a second or subsequent conviction of either a misdemeanor or felony animal-related offense; and
 4. For the period established by an order issued pursuant to section 828.073, Florida Statutes, enjoining the further possession or custody of other animals.

- (iii) This prohibition shall also terminate if: a court of competent jurisdiction has expunged the applicable criminal records; a conviction or adjudication has been reversed or vacated on appeal; or an applicable adjudication pursuant to section 828.073, Florida Statutes, or an “irresponsible dog owner” registration pursuant to section 5-23.2 of this chapter, has been terminated.
 - (iv) An offender who adopts or acquires an animal in violation of this section shall be prohibited from adopting or acquiring an animal for an additional 3-year period beginning upon the expiration of the original period of prohibition.
 - (v) The Director is hereby authorized to institute appropriate proceedings in any court of competent jurisdiction to effectuate the seizure of animals acquired by an offender in violation of this section.
 - (vi) *Use of offender information for harassment prohibited.* Any information maintained by the County regarding offenders and animal-related offenses, as defined above, is intended solely as an information resource by the County and by individuals or entities acquiring animals from the County pursuant to subsection 5-5(c) when they sell, trade, deliver, barter, lease, rent, auction, or otherwise transfer ownership of an animal. It shall be a violation of this section for any person to use offender information to knowingly harass an individual or to interfere with lawful commerce.
- (3) *Appeal.* Written notice of the decision to refuse an adoption or transfer shall be provided. The decision may be appealed by providing to the Director, within 7 calendar days of the written notice, a written request for an administrative hearing. If a request for a hearing is received more than 7 calendar days from the date of the written notice, the hearing officer shall be precluded from exercising jurisdiction, and the appeal shall be dismissed as untimely. An administrative hearing

shall be conducted in accordance with the provisions set forth in chapter 8CC of this code. A decision to refuse an adoption shall not be deemed final until the procedures set forth in this section have been exhausted. No person aggrieved by this section may apply to the Court for relief unless they have first exhausted the remedies provided for herein and taken all available steps provided in this section. The Department shall not be required to keep any particular animal while an appeal pursuant to this section is pending.<<

* * *

- (c) The Department may, at its discretion, transfer animals to an animal rescue organization for medical care, for adoption, for adoption to third parties, or for any other lawful purpose, in accordance with the following provisions:

* * *

- (2) The animal rescue organization shall enter into a written agreement signed by the Director and approved by the County Attorney's Office as to form and legal sufficiency that provides for the following: a guarantee that the organization will comply with the sterilization requirements set forth in Section 823.15(2)(b), Florida Statutes >>, and will prohibit offenders, as defined in this section, from acquiring any animals from the organization<<; a requirement that the organization periodically report to the Department on the disposition of animals acquired from the Department; and that the Department shall have the right to reclaim animals that are being maintained in violation of this chapter or other provisions of this Code. Breach of the agreement shall be a separate violation of this section.

* * *

Section 3. Section 8CC-10 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

* * *

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
	* * *	
5-4	Cruelty to animals	500.00
	Animal fighting or baiting	1,000.00
	Abuse of equine	5,000.00
	"Trunking" of animals	2,000.00
5-5	Failure to sterilize animal	500.00
	Breaching agreement to sterilize an animal	500.00
	>>Acquisition of animal by offender	500.00
	Use of offender information to harass or to interfere with lawful commerce	500.00
	Breach of animal rescue organization agreement	500.00<<
5-6	Failure to vaccinate animal against rabies	50.00
	* * *	

* * *

Section 4. The provisions of Sections 2 and 3 of this ordinance shall not take effect until 90 days from the effective date of this ordinance.

Section 5. The County Mayor or County Mayor's designee shall coordinate with the Clerk of Courts or the Miami-Dade County State Attorney's Office regarding information on individuals who have been convicted of animal-related Offenses as defined in Section 2 above and on making that information available to animal rescue organizations or other entities that acquire animals from Miami-Dade County for the purpose of finding permanent homes for them. The County Mayor or County Mayor's designee shall provide a report regarding this directive to the Board within 90 days of the effective date of this ordinance and place the completed report on an agenda of the Board pursuant to Ordinance No. 14-65.

Section 6. 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 7. 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 8. This ordinance shall become effective 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:

Dennis A. Kerbel

APW
DJK

Prime Sponsor: Commissioner Daniella Levine Cava
Co-Sponsor: Commissioner Rebeca Sosa