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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 9(A)(1)

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

DATE: March 17, 2015

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

SUBJECT: Resolution rescinding Administrative Order 7-41, approving Implementing Order 7-41, pre-employment fingerprint-based criminal history records check, as authorized by Section 125.5801, Florida Statutes
Resolution No. R-257-15

The accompanying resolution was prepared by the Human Resources Department and placed on the agenda at the request of Prime Sponsor Strategic Planning & Government Operations Committee.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: March 17, 2015

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

From: Carlos A. Gimenez
Mayor

Subject: Rescinding Administrative Order 7-41 and Approving Implementing Order 7-41 Regarding Comprehensive Pre-Employment Criminal History Record Checks

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Recommendation
It is recommended that the Board of County Commissioners (Board) rescind Administrative Order 7-41 and approve Implementing Order 7-41 to authorize Miami-Dade County to perform comprehensive pre-employment fingerprint-based criminal history record checks as specified by Florida Statute 125.5801 as amended July 1, 2013. This item accompanies an ordinance that creates Section 2-30 of the County Code to reflect recent statutory changes.

Scope
This Implementing Order will have a countywide impact.

Fiscal Impact
There will be a fiscal impact to all County departments conducting pre-employment fingerprint-based criminal history record checks. This is based upon the wider scope of potential employees, volunteers, interns, contractors and appointees that will require background checks as specified in Implementing Order 7-41. The cost associated with this process will be borne by each County department as applicable.

Track Record/Monitoring
Virginia Washington, Director of the Recruitment, Testing and Career Development Division in the Human Resources Department will continue to manage the use of criminal history background checks in the recruitment and selection process in accordance with the provisions within the Implementing Order.

Background
On January 20, 2005, the Board approved Resolution R-71-05, an Intergovernmental Agreement between Miami-Dade County and the State of Florida Department of Law Enforcement (FDLE), which allowed the County access to the state and national fingerprint criminal history records databases of FDLE and the Federal Bureau of Investigations (FBI).

In 2013, Florida State Statute 125.5801 was amended to allow for the expansion of state and national pre-employment criminal history background checks for certain County employees and appointees to include applicants, volunteers, interns, contractors and contractual temporary personnel to positions deemed critical to security or public safety through passage of an authorizing ordinance by the County's governing body (Board). In order to comply with Florida Statute 125.5801, Implementing Order 7-41 will also reflect the Board's authority to conduct the specified background checks under the amended statute.

All information obtained from the background checks are exempt from public records requests and will be used by hiring managers to make informed hiring selections to provide for fair, non-discriminatory treatment and to minimize exposure to any post-employment misconduct.

Attachment

Edward Marquez
Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: March 17, 2015

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

SUBJECT: Amended Agenda Item No. 9(A)(1)

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 _____

Amended
Agenda Item No. 9(A)(1)
3-17-15

RESOLUTION NO. R-257-15

RESOLUTION RESCINDING ADMINISTRATIVE ORDER 7-41, APPROVING IMPLEMENTING ORDER 7-41, PRE-EMPLOYMENT FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK, AS AUTHORIZED BY SECTION 125.5801, FLORIDA STATUTES; AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL RIGHTS CONFERRED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board rescinds Administrative Order 7-41 and approves Implementing Order 7-41, governing the execution of the policy established by Section 2-30 of the Code of Miami-Dade County to perform comprehensive pre-employment fingerprint-based criminal history record checks as authorized by Section 125.5801, Florida Statutes, in substantially the form attached; and authorizes the County Mayor or County Mayor's designee to exercise any and all rights conferred in the Implementing Order.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.** , who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of March, 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: ***Christopher Agrippa***
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Eric A. Rodriguez

I.O. No.: 7-41
Ordered:
Effective:

MIAMI-DADE COUNTY
IMPLEMENTING ORDER

PRE-EMPLOYMENT FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK

AUTHORITY:
Sections 1.01 and 2.02 of the Miami-Dade County Home Rule Amendment and Charter; Section 2-30 of the Code of Miami-Dade County.

SUPERSEDES:
This Implementing Order supersedes Administrative Order 7-41, approved by the Board on October 18, 2005 and effective October 28, 2005.

POLICY:
It is the policy of Miami-Dade County to perform a comprehensive pre-employment fingerprint-based criminal history records check on applicants, volunteers, interns, contractors, and contractual temporary personnel prior to commencement of employment or service with the County, who have been identified as critical to security or public safety; and any private contractor or employee of a private contractor who have direct contact with individual members of the public or access to any public facility or publicly-operated facility where such contact or access is critical to security or public safety. The review of criminal history information and its potential relevance to job responsibilities is a pre-employment requirement and no person shall be appointed or permitted to begin work or service with the County without an appropriate level of review of this information by each department's hiring authority. Criminal history information should be used by hiring managers to make informed selection decisions and to minimize exposure to any post-employment misconduct.

APPLICABILITY OF THIS ORDER:
The County's background check will be administered by the Human Resources Department or its successor department and will include a pre-employment fingerprint-based criminal history records check through the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigations (FBI) databases. As herein provided, all new hire employees, appointees, personnel and individuals as specified above will undergo such a background check, including new hire employees of certain County departments that are subject to special provisions of the Florida Statutes mandating fingerprint-based criminal history records checks that include an FDLE and FBI database search. Additionally, departments required to conduct special background checks under other Florida statutory requirements must comply with these provisions.

PROCEDURE:
It is vitally important to ensure the timely and fair use of such information as a component of Miami-Dade County's hiring process.

Due to the sensitivity of information contained in the criminal history background checks and the potential liability of maintaining and/or misusing such information, the Human Resources

Department (Recruitment and Internal Placement and Fair Employment Practices sections or its successor department or office) will consult with the U.S. Equal Employment Opportunity Commission, Florida Department of Law Enforcement, Miami-Dade Police Department and the County Attorney's Office to maintain appropriate guidelines on the interpretation, utilization and safeguarding of criminal history information. This information will be disseminated to hiring departments through mandatory training that will be provided to those individuals responsible for requesting, interpreting, and maintaining the results of background checks to ensure that this information is used in a responsible manner that provides for fair, non-discriminatory treatment.

Criminal history information obtained through the FDLE and FBI databases are exempt from public records requests and therefore must be maintained accordingly.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.