

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: (Second Reading: 10-5-21)
June 2, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to immigration services; creating Article XX, section 21-288 of the Code; prohibiting the unlicensed practice of law for the provision of immigration services; requiring notaries public who are not attorneys to include certain language in advertisements, and prohibiting advertisements for notarial services that include the literal translation of "Notary Public" into a language other than English; amending section 8CC-10 of the Code to impose civil penalties

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins and Co-Sponsor Commissioner Sally A. Heyman.



Geri Bonzon-Keenan
County Attorney


GBK/uw

Memorandum



Date: October 5, 2021

To: Honorable Chairman Jose 'Pepe' Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Fiscal Impact Statement for Ordinance Relating to Immigration Services; Creating Article XX

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County. This will be enforced on a complaint driven basis handled through the Consumer Protection Mediation Center, which consists of a Mediation Supervisor and Consumer Protection Investigative Analyst staff, with oversight by the Consumer Advocate. At this time it is anticipated that current staff can absorb any additional violations associated with this ordinance.



J.D. Patterson
Chief Public Safety Officer


FIS04721 211353

Memorandum



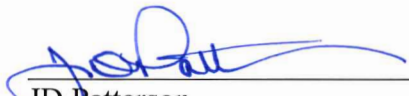
Date: October 5, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity for Ordinance Relating to Immigration Services #211353

The proposed ordinance seeks to protect the community and its visitors from deceptive acts of those providing non-legal immigration services. Many immigrants regrettably fall prey to individuals unauthorized to provide immigration services. These individuals, some of whom advertise their services as *notarios* or *notarios públicos*, have created a public safety crisis in many communities, including Miami-Dade County and a financial hardship to those who fall prey to the fraud. As such, this ordinance shall make it unlawful and a violation of the Code of Miami-Dade County, Florida, for any person not licensed or otherwise authorized to practice law in Florida to provide legal services in the area of immigration law. This ordinance is not anticipated to create any social equity benefit or burden.


JD Patterson
Chief Public Safety Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: 
Gen Bonzon-Keenan
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
- 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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)
10-5-21

ORDINANCE NO. _____

ORDINANCE RELATING TO IMMIGRATION SERVICES; CREATING ARTICLE XX, SECTION 21-288 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROHIBITING THE UNLICENSED PRACTICE OF LAW FOR THE PROVISION OF IMMIGRATION SERVICES; REQUIRING NOTARIES PUBLIC WHO ARE NOT ATTORNEYS TO INCLUDE CERTAIN LANGUAGE IN ADVERTISEMENTS, AND PROHIBITING ADVERTISEMENTS FOR NOTARIAL SERVICES THAT INCLUDE THE LITERAL TRANSLATION OF “NOTARY PUBLIC” INTO A LANGUAGE OTHER THAN ENGLISH; AMENDING SECTION 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO IMPOSE CIVIL PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the United States is home to approximately 45 million immigrants—more than any other country—many of whom enlist the assistance of an immigration attorney or other legal professional to guide them in determining visa eligibility, filling out their immigration application forms, translating documents, gathering evidence, and representing them before an immigration judge; and

WHEREAS, some immigrants regrettably fall prey to individuals unauthorized to provide immigration services who often charge exorbitant fees for unnecessary or substandard work, refuse to return documents to clients, and threaten to report their clients’ immigration status to authorities; and

WHEREAS, although allowed in some states, Florida does not authorize non-attorneys to offer limited immigration services such as filling out forms and translating documents; and

WHEREAS, these individuals, sometimes known as *notarios* or *notarios públicos*, have created a public safety crisis in many communities, including Miami-Dade County, where immigrants who utilize their services often end up paying thousands of dollars, falling out of legal status, missing opportunities to obtain a visa, or getting deported due to falsified information or untimely applications; and

WHEREAS, although the term “notary public” carries no legal authority, it can mislead some immigrants when translated to other languages, especially Spanish, since in many Latin American countries, a *notario público* means an attorney or individual licensed to practice law; and

WHEREAS, to lower the risk of confusion and the potential for fraud, Florida law makes it unlawful for persons to engage in unfair or deceptive trade practices and more specifically provides, in section 117.05, Florida Statutes, that the “[l]iteral translation of the phrase ‘Notary Public’ into a language other than English is prohibited in an advertisement for notarial services” and requires notaries public, who are not attorneys, to include the following statement in written advertisements: “I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF FLORIDA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE”; and

WHEREAS, however, there is no penal sanction for violating these requirements under section 117.05, Florida Statutes; and

WHEREAS, nevertheless, Florida law does provide that any person engaging in the unlicensed practice of law commits a third degree felony, which is punishable by as much as five years in state prison as well as monetary fines, and the Florida Supreme Court, through the Florida

Bar's Unlicensed Practice of Law (UPL) Committee, regulates and prevents the unlicensed practice of law by issuing a civil injunction or requiring an individual to sign a cease and desist affidavit agreeing to stop practicing law; and

WHEREAS, the UPL Committee only acts upon the receipt of complaints; and

WHEREAS, in fiscal year 2019-2020, the UPL Committee received 135 complaints solely related to individuals engaging in the unlicensed practice of immigration law; and

WHEREAS, some immigrants refrain from filing complaints for fear that doing so will jeopardize their legal status; and

WHEREAS, Florida law does not preempt local governments, neither expressly or impliedly, from enacting legislation in this area; and

WHEREAS, it is, therefore, the intent of this Board to protect the residents and consumers of Miami-Dade County from the deceptive and heinous acts of those providing non-legal immigration services by instituting laws which supplement and do not conflict with their regulation by the state of Florida, the Florida Supreme Court, or the Florida Bar,

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

Section 1. Article XX, Section 21-288 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:¹

>>**Art. XX. Sec. 21-288. Unlawful Immigration Services.**

(a) It shall be unlawful and a violation of this section for any person not licensed or otherwise authorized to practice law in this state to provide legal services in the area of immigration law, accept

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.

any fee to provide such legal services, or hold himself or herself out to the public as qualified to practice immigration law, or pretend to be, or take or use any name, title, addition, or description implying that he or she is qualified, or recognized by law as qualified, to practice immigration law. Such unlicensed persons shall not draft, fill out, draw up or assist in the drafting, filling out, or drawing up of immigration forms or documents on behalf of another while holding themselves out as knowledgeable in immigration law and practice.

- (b) A notary public who is not an attorney who advertises the services of a notary public in a language other than English, whether by radio, television, signs, pamphlets, newspapers, or other written communication, with the exception of a single desk plaque, shall post or otherwise include with the advertisement a notice in English and in the language used for the advertisement. The notice shall be of a conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF FLORIDA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is by radio or television, the statement may be modified but must include substantially the same message.
- (c) It shall be unlawful for advertisements for notarial services to include the literal translation of the phrase "Notary Public" into a language other than English. Such prohibited phrases shall include but not be limited to *notarios* and *notarios públicos*.
- (d) *Enforcement.* Failure to comply with the provisions of this section shall constitute a violation. Each violation shall be deemed a separate offense. Violations of this section may be punished in accordance with chapter 8CC.<<

Section 2. 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.

* * *

Code Section	Description of Violation	Civil Penalty
21-287	Rafting	250.00
>>21-288	<u>Unlawful immigration services</u>	
	<u>First offense</u>	<u>2,500.00</u>
	<u>Second or subsequent offense</u>	<u>5,000.00</u> <<
24-15	Failure to have plans approved	200.00
	* * *	

Section 3. 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 4. 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 5. 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:

Altanese Phenelus

Prime Sponsor: Commissioner Danielle Cohen Higgins
Co-Sponsor: Commissioner Sally A. Heyman