

MEMORANDUM

Agenda Item No. 7(B)

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

DATE: (Second Reading: 7-7-22)
May 17, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance regarding elections in Miami-Dade County; amending section 12-14 of the Code; conforming number of vote-by-mail ballots a designee may retrieve, pick up, or return, and definition of immediate family member, to state law; making technical amendments; directing the County Mayor to implement provisions of state law; requiring reports

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator René García.



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: July 7, 2022

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

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink, reading "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Vote by Mail

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, appearing to read "Jimmy Morales".


Jimmy Morales
Chief Operations Officer

Memorandum



Date: July 7, 20222

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

From: Daniella Levine Cava 
Mayor

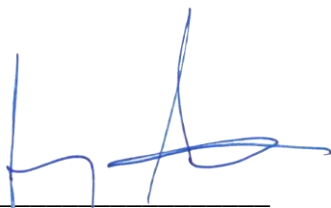
Subject: Social Equity Statement for Ordinance Relating to Vote-by-Mail Ballots

The proposed ordinance primarily relates to the rules of procedure of the Board of County Commissioners, amending Section 12-14 of the Code of Miami-Dade County, Florida. If approved, this ordinance will conform the number of vote-by-mail ballots a designee may pick up or return, and the definition of immediate family member, to State law.

The Code of Miami-Dade County (Code) currently only permits a voter to possess two vote-by-mail ballots, other than their own, one of which can be from an immediate family member. This is defined as the voter’s spouse, parent, child, sibling, or grandparent.

A recently enacted state law now provides that a voter is allowed to possess no more than two ballots other than an immediate family member. The definition of immediate family member is broader. In addition to those mentioned above, it includes grandchild, in-law parent, in-law sibling, and legal guardian of the voter. This ordinance has a positive social impact as it will benefit Miami-Dade County voters by expanding access. It allows voters to entrust immediate family members, as newly expanded in this ordinance, with the return of their Vote-by-Mail ballot.

It also directs the Supervisor of Elections to expeditiously implement other recently enacted state laws, to include annual list maintenance, retention of state initiative petition forms, changing the name drop boxes to ballot intake stations, and the prohibition on accepting private or non-governmental funding for elections activity, and report the progress of such implementation in pre-election reports.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

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

DATE: July 7, 2022

FROM: 
Gen Bonzon-Keenan
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 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(B)

7-7-22

ORDINANCE NO. _____

ORDINANCE REGARDING ELECTIONS IN MIAMI-DADE COUNTY; AMENDING SECTION 12-14 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CONFORMING NUMBER OF VOTE-BY-MAIL BALLOTS A DESIGNEE MAY RETRIEVE, PICK UP, OR RETURN, AND DEFINITION OF IMMEDIATE FAMILY MEMBER, TO STATE LAW; MAKING TECHNICAL AMENDMENTS; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO IMPLEMENT PROVISIONS OF STATE LAW; REQUIRING REPORTS; PROVIDING SEVERABILITY, INCLUSION IN AND EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on July 7, 1998, this Board adopted Ordinance No. 98-104 creating section 12-14 of the Code of Miami-Dade County, Florida (the "Code") to prohibit a designee of an elector from retrieving, picking up, or returning more than two vote-by-mail (previously known as absentee) ballots other than his or her own per election; and

WHEREAS, on December 6, 2011, this Board adopted Ordinance No. 11-93 providing additional penalties for a violation of the prohibitions on the transportation and possession of vote-by-mail ballots contained in section 12-14; and

WHEREAS, in 2021, the Florida Legislature enacted, and the Governor approved, Senate Bill (SB) 90, Chapter 2021-011, Laws of Florida, which, among other amendments to Florida's election laws, created a similar prohibition to section 12-14 of the Code regarding the return of vote-by-mail ballots by a designee of an elector; and

WHEREAS, although similar to section 12-14 of the Code, SB 90 only restricts a designee from physically possessing more than two vote-by-mail ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member; and

WHEREAS, SB 90 also provides a more expansive definition of “immediate family member” than section 12-14 of the Code; and

WHEREAS, amending section 12-14 of the Code to reconcile the differences between the Code and state law regarding the number of vote-by-mail ballots a designee of an elector may possess and transport will provide greater clarity to voters in Miami-Dade County and assist law enforcement authorities in investigating and prosecuting violations of State and County law relating to the possession and transportation of vote-by-mail ballots; and

WHEREAS, during the 2022 session, the Florida Legislature also enacted Senate Bill (SB) 524, amending various provisions of Florida’s election laws; and

WHEREAS, section 4 of SB 524 broadens the prohibition against supervisors of elections from soliciting, accepting, using, or disposing of donations in the form of money, grants, property, or personal services from an individual or a non-governmental entity to include any type of election administration expenses, including the cost of litigation related to election administration; and

WHEREAS, section 8 of SB 524 amends the requirements for supervisor of elections lists maintenance programs requiring, among other things, that such programs be conducted annually rather than biennially; and

WHEREAS, section 11 of SB 524 provides additional requirements for clerks of the circuit court and the Florida Department of Highway Safety and Motor Vehicles to provide the supervisors of elections with information related to the qualifications of voters; and

WHEREAS, section 13 of SB 524 amends the retention requirements for initiative petitions under state law; and

WHEREAS, sections 26, 27 and 28 of SB 524 provide additional criminal penalties for violations of state election laws; and

WHEREAS, on February 5, 2013, this Board adopted Ordinance No. 13-13 creating section 12-1 of the Code requiring the County Mayor or the County Mayor's designee to provide a pre-election report to this Board between 60 and 90 days prior to a Primary Election; and

WHEREAS, this Board desires to conform the provisions of section 12-4 of the Code to state law relating to the number of ballots a designee may retrieve, pick up, or return and the definition of immediate family members; make technical amendments to the Code by renaming absentee ballot as vote-by-mail ballots; require the County Mayor or County Mayor's designee to expeditiously implement the provisions of SB 524; and provide a report on the progress of such implementation to the Board as part of the pre-election report for the 2022 Primary Election,

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

Section 1. Section 12-14 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

**CHAPTER 12
ELECTIONS**

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Sec. 12-14. – [[~~Absentee ballots~~]]>>Vote-by-mail ballots<<.

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.

- (a) ~~[[An absentee]]~~ >>A vote-by-mail<< ballot shall be provided to and returned by an elector, except an overseas elector, in person or by mail except as provided herein. For purposes of this section, "mail" means delivery by the United States Postal Service. ~~[[Absentee]]~~ >>Vote-by-mail<< ballots shall be provided to and returned by overseas electors in accordance with federal law and Florida Statutes. The Supervisor of Elections may provide to and receive ~~[[absentee]]~~ >>vote-by-mail<< ballots from employees of the Miami-Dade Corrections and Rehabilitation Department who are designated by the Director to facilitate the vote for inmates of correctional facilities who are eligible to vote. The Supervisor of Elections may provide ~~[[an absentee]]~~ >>a vote-by-mail<< ballot to a designee of an elector if the elector is unable to retrieve and/or return the ballot in person or by mail as ~~[[follows:]]~~ >>set forth in this section.<<
- (b) The designee must provide to the Supervisor of Elections identification from the elector, picture identification of the designee, and a written statement signed by the elector authorizing the designee by name to pick up and/or return the ~~[[absentee]]~~ >>vote-by-mail<< ballot. If the elector is a member of the designee's immediate family, the signed statement must include the circumstances requiring the designee to pick up and/or return the ~~[[absentee]]~~ >>vote-by-mail<< ballot. If the elector is not a member of the designee's immediate family, the designee must also provide to the Supervisor of Elections a statement signed by a physician on that physician's stationery that, due to a medical emergency involving the elector or elector's dependent, the named elector is unable to vote at the polls and is unable to pick up and/or return ~~[[an absentee]]~~ >>a vote-by-mail<< ballot in person. A designee may retrieve, pick up and/or return (whether by hand, by mail or by any other method) no more than two ~~[[~~(2)~~ absentee]]~~ >>vote-by-mail<< ballots other than his or her own per election, ~~[[only one (1) of which may be for an elector not of the designee's immediate family]]~~ >>except that additional ballots may be picked up and/or returned for members of the designee's immediate family<<. For purposes of this section, "immediate family" means the ~~[[elector's]]~~ >>designee's<< spouse or the parent, child, grandparent, >>grandchild,<< or sibling of the ~~[[elector]]~~ >>designee or designee's spouse<<. A designee may only pick up and/or return ~~[[an absentee]]~~ >>a vote-by-mail<< ballot on the day before or day of the election for an immediate family member and on the day of the election for a non-family member. The designee must complete an affidavit that states that the designee is authorized by the elector to retrieve and/or return the elector's ballot and shall indicate his or her relationship to the elector, if any. Any person picking up and/or

returning ~~[[absentee]]~~>>vote-by-mail<< ballots in violation of the provisions of this subsection shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the court having jurisdiction over the cause.

- (c) The Supervisor of Elections shall prescribe the form of the affidavit to be completed and signed by a designee of an elector. If the Supervisor of Elections is satisfied that the designee is authorized to retrieve and/or return the ~~[[absentee]]~~>>vote-by-mail<< ballot, the ballot shall be provided to or accepted from the designee.

Section 2. The County Mayor or County Mayor's designee shall expeditiously implement sections 4, 8, 13 and 22 of SB 524 relating to prohibiting private funding of elections activity, list maintenance procedures, retention of state initiative petition forms and ballot intake stations. The County Mayor or County Mayor's designee shall also include in the pre-election report required by section 12-1 of the Code all steps the Supervisor of Elections has taken to implement sections 4, 8, 13 and 22 of SB 524 and all steps taken by the Clerk of the Courts, the Florida Department of Highway Safety and Motor Vehicles and law enforcement agencies to implement sections 11, 26, 27 and 28 of SB 524.

Section 3. The County Mayor or County Mayor's designee shall also prepare a quarterly report detailing any changes to voter registrations in Miami-Dade County including the number of newly registered voters, the number of voters removed from the voting rolls pursuant to list maintenance activities, changes in registration or disqualification, and the reasons for removal of voters from the voter rolls pursuant to the required list maintenance activities. The quarterly report shall be filed with the Clerk of the Board and provided to the offices of each Commissioner.

Section 4. 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 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that section 1 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 6. It is the intention of this Board and it is hereby ordained that sections 2 and 3 of this Ordinance shall be excluded from the Code.

Section 7. 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:

Oren Rosenthal

Prime Sponsor: Senator René García