

# MEMORANDUM

Agenda Item No. 11(A)(2)

---

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

**DATE:** November 1, 2022

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Resolution urging the Florida  
Governor to pardon persons  
convicted of simple possession of  
marijuana under Florida law;  
urging the Florida Cabinet to  
approve such pardon

---

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kionne L. McGhee.



---

Geri Bonzon-Keenan  
County Attorney

GBK/uw

MDC001



# MEMORANDUM

(Revised)

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

**DATE:** November 1, 2022

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 11(A)(2)

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. 11(A)(2)  
11-1-22

RESOLUTION NO. \_\_\_\_\_

RESOLUTION URGING THE FLORIDA GOVERNOR TO  
PARDON PERSONS CONVICTED OF SIMPLE POSSESSION  
OF MARIJUANA UNDER FLORIDA LAW; URGING THE  
FLORIDA CABINET TO APPROVE SUCH PARDON

**WHEREAS**, many people, nationally and within the State of Florida, have been convicted and imprisoned for simple possession of marijuana, conduct that is no longer prohibited by a number of jurisdictions; and

**WHEREAS**, criminal records for marijuana possession have imposed needless barriers to employment, housing, and educational opportunities; and

**WHEREAS**, section 893.03, Florida Statutes, classifies marijuana (listed as cannabis) as a Schedule I controlled substance; and

**WHEREAS**, simple possession of marijuana is the possession of marijuana for personal use by a person who has no intent to manufacture, distribute, or sell; and

**WHEREAS**, simple possession of marijuana is a crime in Florida, with penalties determined by the amount possessed; and

**WHEREAS**, pursuant to sections 775.082(4)(a), 775.083(1)(d), and 893.13(6)(b), Florida Statutes, possessing 20 or fewer grams of marijuana is a first-degree misdemeanor, punishable by up to one year in jail and a fine of \$1,000.00; and

**WHEREAS**, pursuant to sections 775.082(3)(e), 775.083(1)(c), and 893.13(2)(a)(2), Florida Statutes, purchasing or possessing more than 20 grams of marijuana is a third-degree felony, punishable by up to five years in prison and a fine of as much as \$5,000.00; and

**WHEREAS**, according to the Federal Bureau of Investigation’s Uniform Crime Reporting (“UCR”) Program, in 2019, arrests for possession of marijuana constituted 32.1 percent of all arrests for drug abuse violations in the United States; and

**WHEREAS**, according to the UCR, in 2019, arrests for possession of marijuana constituted 39.4 percent of all arrests for drug abuse violations in the South; and

**WHEREAS**, although research shows that people of all ethnicities use marijuana at similar rates, people of color have been arrested, prosecuted, and convicted at disproportionate rates; and

**WHEREAS**, for example, according to the United States 2020 Census, persons in Florida identifying as “Black or African American alone or in combination” make up 17.2 percent of Florida’s population; and

**WHEREAS**, yet, according to the Florida Department of Law Enforcement’s Criminal History Reports, arrests of Black persons for the possession of marijuana under sections 893.13(6)(b) and 893.13(2)(a)(2), Florida Statutes, made up 50.7 percent of all arrests for the possession of marijuana under these statutes in 2021; and

**WHEREAS**, on October 6, 2022, President Joseph R. Biden Jr., issued a Proclamation Granting Pardon for the Offense of Simple Possession of Marijuana; and

**WHEREAS**, acting pursuant to Article II, section 2, of the Constitution of the United States, President Biden granted a full, complete, and unconditional pardon to (1) all current United States citizens and lawful permanent residents who committed the offense of simple possession of marijuana in violation of the Controlled Substances Act, as currently codified at 21 United States Code (“U.S.C.”) section 844 and as previously codified elsewhere in the United States Code, or in violation of District of Columbia (“D.C.”) Code section 48–904.01(d)(1), regardless of whether they have been charged with or prosecuted for the offense; and (2) all current United States citizens

and lawful permanent residents who have been convicted of the offense of simple possession of marijuana in violation of the Controlled Substances Act, as currently codified at 21 U.S.C. section 844 and as previously codified elsewhere in the United States Code, or in violation of D.C. Code section 48–904.01(d)(1)—allowing for the restoration of the person’s full political, civil, and other rights; and

**WHEREAS**, along with granting the pardon, President Biden released a statement urging all Governors to grant similar pardons with regards to state offenses for simple possession of marijuana; and

**WHEREAS**, Article IV, section 8 of the Florida Constitution expressly vests the executive clemency power in the Governor; and

**WHEREAS**, clemency is the constitutionally authorized process by which the Governor may, with the approval of two members of the Cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses; and

**WHEREAS**, the Governor has previously used his clemency power to ensure that undeservingly punished individuals do not remain punished, notably pardoning Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas, often referred to as the “Groveland Four”; and

**WHEREAS**, the Governor has another opportunity to right past wrongs by pardoning persons convicted of simple possession of marijuana; and

**WHEREAS**, accordingly, this Board wishes to urge the Governor to use the executive clemency power to pardon persons convicted of simple possession of marijuana under Florida law; and

**WHEREAS**, because the Governor requires the approval of two members of the Cabinet to grant pardons, this Board wishes to urge the Cabinet to approve such pardons,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board:

**Section 1.** Urges the Florida Governor to pardon persons convicted of simple possession of marijuana under Florida law.

**Section 2.** Urges the Florida Cabinet to approve the pardon of persons convicted of simple possession of marijuana under Florida law.

**Section 3.** Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, Senate President, House Speaker, Florida Attorney General, Florida Chief Financial Officer, Florida Commissioner of Agriculture, and the Chair and the Members of the Miami-Dade State Legislative Delegation.

**Section 4.** Directs the County's state lobbyists to advocate for the actions described in sections 1 and 2 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2023 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Kionne L. McGhee. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Kionne L. McGhee
Jean Monestime	Raquel A. Regalado
Rebeca Sosa	Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 1<sup>st</sup> day of November, 2022. 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: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Jose I. Ortega