

MEMORANDUM

Agenda Item No. 11(A)(14)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 2, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to identify legally available funds in the Fiscal Year 2023-2024 County Budget to fund the elimination of certain fees that the Miami-Dade County Corrections and Rehabilitation Department (“MDCR”) charges incarcerated people and, upon identification of said funds, to present mid-year budget amendment to effectuate same (“condition precedent”); by date certain, (1) approving the elimination of negative balances and outstanding debts for all such fees, (2) rescinding Administrative Order No. 04-117, Implementing Order No. 04-113, Implementing Order No. 04-116, and Implementing Order No. 04-98, and (3) prohibiting the imposition of certain costs and fees as well as actions seeking the imposition of discretionary liens on individuals who have been incarcerated in MDCR jail facilities without prior Board authorization

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Eileen Higgins.


Geri Bonzon-Keenan
County Attorney

GBK/gh


MDC001



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

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Gen Bonzon-Keenan
County Attorney

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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)(14)
4-2-24

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO IDENTIFY LEGALLY AVAILABLE FUNDS IN THE FISCAL YEAR 2023-2024 COUNTY BUDGET TO FUND THE ELIMINATION OF CERTAIN FEES THAT THE MIAMI-DADE COUNTY CORRECTIONS AND REHABILITATION DEPARTMENT (“MDCR”) CHARGES INCARCERATED PEOPLE AND, UPON IDENTIFICATION OF SAID FUNDS, TO PRESENT MID-YEAR BUDGET AMENDMENT TO EFFECTUATE SAME (“CONDITION PRECEDENT”); BY DATE CERTAIN, (1) APPROVING THE ELIMINATION OF NEGATIVE BALANCES AND OUTSTANDING DEBTS FOR ALL SUCH FEES, (2) RESCINDING ADMINISTRATIVE ORDER NO. 04-117, IMPLEMENTING ORDER NO. 04-113, IMPLEMENTING ORDER NO. 04-116, AND IMPLEMENTING ORDER NO. 04-98, AND (3) PROHIBITING THE IMPOSITION OF CERTAIN COSTS AND FEES AS WELL AS ACTIONS SEEKING THE IMPOSITION OF DISCRETIONARY LIENS ON INDIVIDUALS WHO HAVE BEEN INCARCERATED IN MDCR JAIL FACILITIES WITHOUT PRIOR BOARD AUTHORIZATION

WHEREAS, the mission of the Miami-Dade County Corrections and Rehabilitation Department (“MDCR”) is to serve the community by providing safe, secure, and humane detention of individuals in its custody; and

WHEREAS, individuals incarcerated in MDCR jail facilities are responsible for various fees related to their incarceration; and

WHEREAS, for instance, currently, all incarcerated people must pay a processing fee as well as other fees if they participate in the Monitored Release Program or a Work Release Program, such as Phase 2 of the Boot Camp Program; and

WHEREAS, in addition, although all incarcerated people will receive necessary medical care irrespective of their ability to pay, if an incarcerated person's personal account has sufficient funds it may be assessed to reimburse MDCR for certain routine medical services; and

WHEREAS, MDCR or a referring court may waive or opt not to assess the above-referenced fees; and

WHEREAS, in the past, incarcerated people were also responsible for subsistence fees in the amount of \$2.00 per day, which were authorized pursuant to section 951.033, Florida Statutes, and assessed in accordance with Implementing Order No. 4-113; and

WHEREAS, however, on May 3, 2022, this Board adopted Resolution No. R-437-22, which, in part, eliminated the daily \$2.00 subsistence fee and approved the elimination of negative balances and outstanding debts resulting from same; and

WHEREAS, with the passage of Resolution No. R-437-22, approximately \$72,000,000.00 in years-old, unpaid fees that were deemed uncollectable by MDCR was cleared; and

WHEREAS, although a significant amount of debt was purged through the Board's approval of Resolution No. R-437-22, approximately \$24,000,000.00 in debt for other fees is still outstanding and unlikely to be recovered; and

WHEREAS, fees for processing, the Monitored Release Program, the Work Release Program, and routine medical services make up a substantial percentage of such debt; and

WHEREAS, many people incarcerated in MDCR jail facilities do not have income or an ability to pay the various fees assessed by MDCR; and

WHEREAS, as such, MDCR has been unable to collect a significant proportion of the fees it assesses, and it is unlikely that a meaningful amount of the \$24,000,000.00 in outstanding debt or any other debt that arises from fees will ever be collected; and

WHEREAS, nonetheless, MDCR expends valuable financial and human resources to collect the debt arising from the fees, creating administrative and tax burdens; and

WHEREAS, section 951.033 and Implementing Order No. 4-113 authorize liens be placed against an incarcerated person's cash account or other personal property for payment of certain fees and costs related to their incarceration, including the processing fee; and

WHEREAS, sections 951.033 and 951.24, Florida Statutes, also authorize MDCR to charge incarcerated people Monitored Release Program and Work Release Program fees, which are effectuated through Implementing Order No. 4-116 and Administrative Order No. 4-117, respectively; and

WHEREAS, notwithstanding authorization for a Work Release Program in Administrative Order No. 4-117, currently MDCR only offers work release to incarcerated people during Phase 2 of the Boot Camp Program through a departmental operating procedure; and

WHEREAS, MDCR may also seek reimbursement for certain medical care, diagnostic services, and treatment expenses from an incarcerated person through his or her expense account or by placing a lien against the person's cash account or personal property pursuant to section 951.032, Florida Statutes, which is effectuated through Implementing Order No. 4-98; and

WHEREAS, although Implementing Order No. 4-98 authorizes MDCR to charge incarcerated people \$150.00 for transportation costs to their personal physician, MDCR does not provide such transportation; and

WHEREAS, instead, when necessary, MDCR transports incarcerated individuals, free of charge, to an appropriate provider for medical treatment; and

WHEREAS, further, certain incarcerated people may be eligible to participate in the MDCR Boot Camp Program, which is a sentencing option that judges use as an alternative to incarceration for youthful offenders between the ages of 18 and 28 and individuals under 18 who have been adjudicated as adults; and

WHEREAS, policies and procedures for the Boot Camp Program are prescribed in MDCR's Departmental Standard Operating Procedure No. 20-007; and

WHEREAS, specifically, MDCR charges the following fees for said programs and services:

1. Processing – a one-time fee of \$25.00;
2. Monitored Release Program – a one-time fee of \$100.00 for the installation of monitoring equipment and a daily supervisory fee in the amount of \$2.00;
3. Boot Camp Program, Phase 2's 60-day Work Release Program – a daily supervisory fee of \$10.00 per day, up to \$600.00; and
4. Routine Medical Services – fees that range between \$3.00 and \$15.00 for certain medical services, dental services, and prescription medications; and

WHEREAS, additionally, pursuant to section 960.297, Florida Statutes, Miami-Dade County is authorized to file civil actions or counterclaims to recover incarceration costs and other correctional costs, as set forth in section 960.293, Florida Statutes, from individuals upon conviction; and

WHEREAS, when appropriate, the County, on behalf of MDCR, has availed itself of all such authority and imposed civil restitution liens as well as filed civil claims against certain individuals who owe fees due to incarceration in MDCR jail facilities; and

WHEREAS, MDCR reports that it collected \$1,014,481.86 in revenue from costs and fees imposed on incarcerated people in the 2022-23 Fiscal Year, which is less than three tenths of one percent of MDCR's \$482,736,000.00 budget for the 2023-24 Fiscal Year; and

WHEREAS, MDCR estimates that the daily cost of incarceration is \$278.00 per individual, while the daily cost to MDCR for an incarcerated person's participation in the Monitored Release Program is \$34.00 per individual; and

WHEREAS, the \$244.00 difference between the cost of keeping an eligible individual incarcerated and allowing such person to participate in the Monitored Release Program is ultimately borne by taxpayers; and

WHEREAS, furthermore, keeping people incarcerated when they could otherwise be safely released into the community exasperates the overcrowding issue at MDCR jail facilities; and

WHEREAS, MDCR should cease collecting and imposing discretionary fees and liens and redirect the resources used for such efforts to endeavors that are intended to provide an impactful benefit to the County or community; and

WHEREAS, this Board desires to rescind Administrative Order No. 4-117, Implementing Order No. 4-113, Implementing Order No. 4-116, and Implementing Order No. 4-98 and eliminate certain fees imposed by MDCR related to processing, the Monitored Release Program, a Work Release Program, such as Phase 2 of the Boot Camp Program, and routine medical services, as well as cease the practice of imposing discretionary liens against incarcerated people,

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

Section 1. This Board directs the County Mayor or County Mayor's designee to identify legally available funds in the Fiscal Year 2023-2024 County Budget to fund the elimination of the discretionary fees authorized pursuant to sections 951.032, 951.033, and 951.24, Florida Statutes, and Administrative Order No. 04-117, Implementing Order No. 04-113, Implementing Order No. 04-116, Implementing Order No. 04-98, and Miami-Dade Corrections and Rehabilitation Departmental Standard Operating Procedure No. 20-007 for the:

- (a) \$100.00 installation and \$2.00 supervisory fees charged daily for the Monitored Release Program;
- (b) \$25.00 processing fee;
- (c) Work Release Program fee, which can be up to \$20.00 per day;
- (d) routine medical services fees, which range from \$3.00 to \$15.00;
- (e) \$150.00 fee for medical transportation to an incarcerated person's personal physician; and
- (f) daily supervisory fee, currently \$10.00, for Phase 2 of the Boot Camp Program, which is a Work Release Program.

Section 2. This Board further directs the County Mayor or County Mayor's designee to identify legally available funds in the Fiscal Year 2023-2024 County Budget to fund the elimination of existing negative balances for unpaid processing, Boot Camp Program, Work Release Program, Monitored Release Program, and routine medical services fees, imposed pursuant to Administrative Order No. 04-117, Implementing Order No. 04-113, Implementing

Order No. 04-116, Implementing Order No. 04-98, or Departmental Standard Operating Procedure No. 20-007, for currently incarcerated and previously incarcerated individuals (“Negative Balances”).

Section 3. If funding in the Fiscal Year 2023-2024 County Budget has been identified to address the budgetary impacts of the desired policy actions set forth in sections 1 and 2 of this resolution, this Board directs the County Mayor or County Mayor’s designee to (collectively defined as “Condition Precedent”) prepare and present a mid-year budget amendment and supplement to: (a) address the budgetary impacts of the actions set forth in sections 1 and 2; and (b) rescind Administrative Order No. 04-117, Implementing Order No. 04-113, Implementing Order No. 04-116, and Implementing Order No. 04-98.

Section 4. If the Condition Precedent is not satisfied on or before July 1, 2024, then effective October 1, 2024, Administrative Order No. 04-117, Implementing Order No. 04-113, Implementing Order No. 04-116, and Implementing Order No. 04-98 shall be rescinded and all Negative Balances shall be deemed waived. This Board further directs the County Mayor to include funding in the County Mayor’s Fiscal Year 2024-2025 proposed County Budget to fund the elimination of Negative Balances and the amounts anticipated to be collected for all such eliminated fees set forth in Administrative Order No. 04-117, Implementing Order No. 04-113, Implementing Order No. 04-116, and Implementing Order No. 04-98.

Section 5. Subject to satisfaction of the Condition Precedent by July 1, 2024 or otherwise commencing on October 1, 2024, this Board adopts and approves County policy to prohibit the County Mayor or County Mayor’s designee and the County Attorney’s Office, as may be applicable and without prior authorization from the Board, from: (a) imposing discretionary fees for processing, the Boot Camp Program, the Monitored Release Program, routine medical

services, and the Work Release Program; (b) seeking payment or instituting efforts to collect any and all outstanding debt resulting from fees identified in subsection 5(a); and (c) instituting any action seeking the imposition of discretionary liens on individuals who owe fees due to incarceration in MDCR jail facilities.

The Prime Sponsor of the foregoing resolution is Commissioner Eileen Higgins. 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:

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

The Chairperson thereupon declared this resolution duly passed and adopted this 2nd day of April, 2024. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Shanika A. Graves