

MEMORANDUM

Agenda Item No. 11(A)(19)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: February 4, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact legislation
that would allow local
governments to more fully
recover costs incurred with
respect to civil and criminal
animal cruelty cases

Resolution No. R-157-20

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



Abigail Price-Williams
County Attorney 

APW/smm

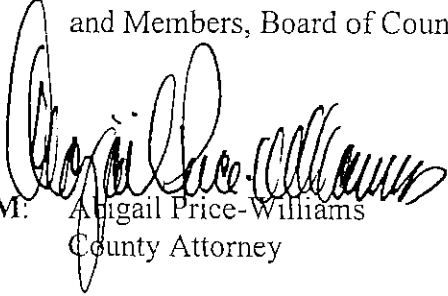


MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

DATE: February 4, 2020

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SUBJECT: Agenda Item No. 11(A)(19)

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)(19)

2-4-20

RESOLUTION NO. R-157-20

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
ENACT LEGISLATION THAT WOULD ALLOW LOCAL
GOVERNMENTS TO MORE FULLY RECOVER COSTS
INCURRED WITH RESPECT TO CIVIL AND CRIMINAL
ANIMAL CRUELTY CASES

WHEREAS, Miami-Dade County, through its Animal Services Department (“ASD”) and Police Department (“MDPD”), often investigates and participates in the prosecution of both civil and criminal animal cruelty cases; and

WHEREAS, on the civil side, the County files suit in court against animal owners to obtain permanent custody of animals that ASD has temporarily seized after finding that the animals have been neglected or abused by their owners; and

WHEREAS, these civil proceedings, filed under section 828.073, Florida Statutes, allow ASD to obtain not only permanent custody of animals found in distress, but also other remedies, including injunctions prohibiting abusers from owning further animals and recovery of certain costs that ASD has incurred after seizing animals found in distress; and

WHEREAS, due to the manner in which the governing statute is written, there are frequently situations in which the court cannot award ASD all of the costs ASD has incurred or expects to incur in the future with respect to animals found in distress and taken into ASD’s custody; and

WHEREAS, for example, in these civil cases, ASD can recover costs incurred to take care of an animal between the time when ASD seizes the animal and the time when the court awards ASD permanent custody of the animal, but the governing statute does not provide that the court

may award ASD costs that ASD expects to incur after the court has awarded permanent custody, such as the costs of rehabilitative surgeries or the costs of spaying or neutering intact animals; and

WHEREAS, on the criminal side, ASD and MDPD assist the State Attorney's Office in prosecuting animal cruelty crimes and incur costs in rendering such assistance, such as the costs of giving care to animals that have been subjected to criminal abuse; and

WHEREAS, depending on the facts involved and the language of the governing laws, sometimes these criminal cases have parallel civil cases, but sometimes they do not; and

WHEREAS, in criminal cases for which there is no related civil case, ASD and MDPD rely on the State Attorney's Office to ensure that the sentence ultimately imposed on the criminal defendant includes restitution or other repayment for the costs ASD and MDPD have incurred; and

WHEREAS, although Florida law requires courts to order restitution to "victims" of a defendant's criminal offense, it is difficult for local governments to recover restitution because section 775.089(1)(c)1 provides that the term "victim" "includes governmental entities and political subdivisions . . . when such entities are a direct victim of the defendant's offense or criminal episode and not merely providing public services in response to the offense or criminal episode"; and

WHEREAS, the County incurs substantial costs in enforcing animal cruelty laws and caring for animals that have been subjected to neglect and abuse, but Florida law as currently written prevents the County from recovering its full costs against animal abusers; and

WHEREAS, if the County could more fully recover costs against animal abusers, the County would have more funding available to better combat animal cruelty and to pursue other animal welfare initiatives; and

WHEREAS, for the sake of the animals and the people of Miami-Dade County, this Board wishes to urge the Florida Legislature to enact legislation that would allow local governments to more fully recover costs incurred with respect to civil and criminal animal cruelty cases,

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

Section 1. Urges the Florida Legislature to enact legislation that would allow local governments to more fully recover costs incurred with respect to civil and criminal animal cruelty cases, including but not limited to: (1) amending section 828.073, Florida Statutes, to allow for broader recovery of costs, including but not limited to reasonably anticipated future costs of care; (2) providing an exception to the definition of “victim” in section 775.089(1)(c)1, Florida Statutes, to allow local governments to recover restitution in animal cruelty cases, including but not limited to costs of care already incurred and reasonably anticipated future costs of care; (3) requiring state attorney’s offices to consult with local governments regarding recovery of the local government’s restitution in animal cruelty cases; and (4) granting local governments a right to be heard during sentencing hearings in animal cruelty cases.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, the Senate President, the House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 3. Directs the County’s state lobbyists to advocate for the passage of legislation in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2020 State Legislative Package to include this item and to include this item in the 2021 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Xavier L. Suarez** and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	aye		
Rebeca Sosa, Vice Chairwoman	aye		
Esteban L. Bovo, Jr.	absent	Daniella Levine Cava	aye
Jose "Pepe" Diaz	aye	Sally A. Heyman	aye
Eileen Higgins	aye	Barbara J. Jordan	aye
Joe A. Martinez	aye	Jean Monestime	aye
Dennis C. Moss	aye	Sen. Javier D. Souto	absent
Xavier L. Suarez	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of February, 2020. 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: Linda L. Cave
Deputy Clerk



Approved by County Attorney as
to form and legal sufficiency.

CJW

Christopher J. Wahl