

MEMORANDUM

Amended
Agenda Item No. 11(A)(6)

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

DATE: May 3, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to identify legally available funds from within the fiscal year 2021-2022 County Budget to fund the elimination of the \$2.00 daily inmate subsistence fee currently set forth in Implementing Order 4-113; amending Implementing Order 4-113 to eliminate the \$2.00 daily inmate subsistence fee; approving the elimination of negative balances and outstanding debts; directing the County Mayor to include elimination of \$2.00 daily inmate subsistence fee in the County Mayor's proposed budget for fiscal year 2022-2023; and requiring a report

Resolution No. R-437-22

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsors Commissioner Eileen Higgins and Commissioner Kionne L. McGhee.



Geri Bonzon-Keenan
County Attorney


GBK/jp



MEMORANDUM
(Revised)

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

DATE: May 3, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

Amended

SUBJECT: Agenda Item No. 11(A)(6)

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 _____

Amended
Agenda Item No. 11(A)(6)

R-437-22

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO IDENTIFY LEGALLY AVAILABLE FUNDS FROM WITHIN THE FISCAL YEAR 2021-2022 COUNTY BUDGET TO FUND THE ELIMINATION OF THE \$2.00 DAILY INMATE SUBSISTENCE FEE CURRENTLY SET FORTH IN IMPLEMENTING ORDER 4-113; AMENDING IMPLEMENTING ORDER 4-113 TO ELIMINATE THE \$2.00 DAILY INMATE SUBSISTENCE FEE; APPROVING THE ELIMINATION OF NEGATIVE BALANCES AND OUTSTANDING DEBTS; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO INCLUDE ELIMINATION OF \$2.00 DAILY INMATE SUBSISTENCE FEE IN THE COUNTY MAYOR’S PROPOSED BUDGET FOR FISCAL YEAR 2022-2023; AND REQUIRING A REPORT

WHEREAS, the Miami-Dade Corrections and Rehabilitation Department (“MDCR”) imposes both a one-time \$25.00 processing fee chargeable at the time of booking and a \$2.00 daily subsistence fee on inmates in its care, custody, and control; and

WHEREAS, these subsistence fees are set forth in Implementing Order 4-133, which was established after this Board passed Resolution No. R-955-97, directing the then-County Manager to prepare an administrative order to set forth and charge incarcerated inmates a fee to cover a fair portion of their incarceration costs; and

WHEREAS, these subsistence fees are imposed pursuant to section 951.033, Florida Statutes, which authorizes counties to charge inmates all or a fair portion of the costs incurred by the counties to jail inmates, otherwise referred to as the inmate’s “subsistence costs;” and

WHEREAS, the \$2.00 daily subsistence fee is to be debited on a daily basis from the inmate’s financial account at the MDCR facility; and

WHEREAS, recent figures provided by MDCR show that 87 percent of current inmates have a negative balance on their financial accounts and their daily subsistence fees are not being paid; and

WHEREAS, MDCR, in consultation with the Finance Department, has deemed unpaid inmate fees that are several years old as uncollectable, and has accordingly authorized its banking and commissary vendor to purge over \$72,000,000.00 of unpaid inmate fees that were outstanding for more than seven years; and

WHEREAS, the personnel costs and administrative burdens imposed upon MDCR and its vendors as a result of having to charge, deduct, and account for the \$2.00 daily inmate subsistence fee far outweigh the benefits and revenues derived from the amounts actually paid and received from a small minority of MDCR's inmates; and

WHEREAS, accordingly, this Board wishes to amend Implementing Order 4-113 to retain the one-time \$25.00 inmate processing fee charged at booking, but eliminate the \$2.00 daily inmate subsistence fee as well as negative balances from unpaid daily subsistence fees for both current and previously incarcerated inmates,

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

Section 1. Directs the County Mayor or County Mayor's designee to identify legally available funds in the fiscal year 2021-2022 County Budget to fund the elimination of the \$2.00 daily inmate subsistence fee set forth in Implementing Order 4-113.

Section 2. Approves an amendment to Implementing Order 4-113, in substantially the form attached hereto, to retain the one-time \$25.00 inmate processing fee, eliminate the \$2.00 daily inmate subsistence fee, and make other conforming changes, which amendment shall be effective:

(a) upon the County Mayor's or County Mayor's designee's identification of legally available funds in the fiscal year 2021-2022 County Budget to fund this reduction in revenues; or (b) if no such funds are available or no expenditures can be eliminated within the fiscal year 2021-2022 County Budget, on October 1, 2022.

Section 3. Upon the amendment to Implementing Order 4-113 becoming effective, approves the elimination of existing negative balances from unpaid daily subsistence fees for current inmates as well as outstanding debts of previously incarcerated inmates due to unpaid daily subsistence fees, including the termination of associated collection efforts.

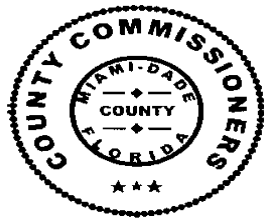
Section 4. Further directs the County Mayor to include the elimination of the \$2.00 daily inmate subsistence fee in the County Mayor's Proposed Budget for fiscal year 2022-2023.

Section 5. Directs the County Mayor or County Mayor's designee to: (a) prepare a written report relating to the matters set forth in this resolution, including whether sufficient funds have been identified and allocated from within the fiscal year 2021-2022 County Budget to fund the elimination of the \$2.00 daily inmate subsistence fee as set forth in section 2 of this resolution; and (b) to present the report to this Board for its consideration no later than 30 days from the effective date of this resolution, and to place the report directly on an agenda of this Board without committee review pursuant to Ordinance No. 14-65. Notwithstanding the foregoing, it is the Board's intention that the report be placed on an agenda of this Board prior to the implementation of the action described in sections 2 and 3 above.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman and the Co-Sponsors are Commissioner Eileen Higgins and Commissioner Kionne L. McGhee. It was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Kionne L. McGhee** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 3rd day of May, 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: **Basia Pruna**

Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "MRP", written over a horizontal line.

Monica Rizo Perez
Anita Viciano Zapata

I.O. No.: 4-113
Adopted: [[9/18/2014]]
Effective: [[10/1/2014]]

MIAMI-DADE COUNTY
IMPLEMENTING ORDER

FEE SCHEDULE FOR MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT
[[DAILY INMATE SUBSISTENCE AND]] >>INMATE<<PROCESSING

AUTHORITY:

The Miami-Dade County Home Rule Charter, including among others, Sections 1.01 and 2.02A, and Section[[s]] 951.033 [[-(2014)-and 939.06-(2014)], Florida Statutes>>(2021)<<.

SUPERSEDES:

This Implementing Order amends Implementing Order 4-113, ordered September 18, [[2009]] >>2014<< and effective October 1, [[2009]] >>2014<<.

POLICY:

This Implementing Order establishes fees for charging inmates in the care, custody and control of the Miami-Dade Corrections and Rehabilitation Department a one-time processing fee[[-and a fair portion of their daily subsistence during incarceration]]>>to offset costs of incarceration<<.

APPLICABILITY:

The provisions of this procedure are applicable to all inmates incarcerated in facilities operated by the Miami-Dade Corrections and Rehabilitation Department. Exemptions will be determined by the Department Director to include inmates held for U.S. Marshal (as their sole charge), inmates assigned to the Work Release Program, Boot Camp Program, House Arrest Program, and inmates assigned to the Inmate Worker Program.

FEE SCHEDULE:

[[The daily subsistence fee charged to all inmates to offset the cost of incarceration is \$2.00.]]
The one-time processing fee charged to all inmates to offset costs of incarceration is \$25.00.

PROCEDURE:

The Department Director is authorized to collect fees pursuant to Section 951.033, Florida Statutes, and account for the revenues. The process will involve the following:

a) The inmate will be advised of a fee schedule and policy during the orientation process and a copy of the fee schedule will be [[posted in each housing unit as well as]] made available in the inmate handbook.

[[b]—The daily subsistence fee will be debited on a daily basis from the inmate's financial account in the facility.]]

>>b<<[[e]]) The one-time processing fee will be \$25.00 after the inmate is booked into custody.

>>c<<[[d]]) If the inmate's financial account in the facility does not contain sufficient funds to cover subsistence costs, the Director may place a civil restitution lien against the inmate's other personal property. A civil restitution lien may continue for a period of three years and applies to the financial account of any inmate who is re-incarcerated within the county in

which the civil restitution lien originated.

>>d<<[[e]]) When the court orders a lien against an inmate's funds; e.g., for child support, restitution, or court fees, such orders will take precedence over the collection of the [[daily]] subsistence fee.

>>e<<[[f]]) If any inmate wishes to present reasons in opposition to the assessment, a formal written appeal is available through the inmate grievance process as outlined in the inmate handbook.

>>f<<[[g]]) Any inmate with uncollected funds owed to Miami-Dade County Corrections and Rehabilitation Department, upon their release, shall pay said funds before any funds are released to them.>>Outstanding debts owed by a previously incarcerated inmate that are less than seven years old shall be deducted from the intake money deposit after the processing fee is charged.<<

>>g<<[[h]]) Inmates who are held in jail as unsentenced and are acquitted or discharged on all charges shall be reimbursed for >>subsistence fees upon compliance with section 939.06, Florida Statutes (2021)<<[[the daily charge of subsistence which they paid but not for the one-time processing fee. The inmate must provide a certified copy of the final court disposition from the Clerk of Courts prior to the reimbursement of such funds. The inmate may submit the request for payment at the facility property room upon release. After administrative review and processing, the check will be mailed to the last known address no later than 90 days after receipt of final court disposition]].

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

Approved by the County Attorney as
to form and legal sufficiency _____