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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

MEMORANDUM

Agenda Item No. 11(A)(11)

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

DATE: September 6, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact legislation to
reform and modernize laws that
criminalize the transmission of
human immunodeficiency virus

Resolution No. R-789-23

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


Geri Bonzon-Keenan
County Attorney

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MDC001



MEMORANDUM

(Revised)

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

DATE: September 6, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

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

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)(11)
9-6-23

RESOLUTION NO. _____ R-789-23

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
ENACT LEGISLATION TO REFORM AND MODERNIZE
LAWS THAT CRIMINALIZE THE TRANSMISSION OF
HUMAN IMMUNODEFICIENCY VIRUS

WHEREAS, human immunodeficiency virus (“HIV”) is a virus that spreads through the transfer of certain bodily fluids; and

WHEREAS, HIV attacks the body’s immune system and thereby impedes an infected individual’s ability to fight off other infections and diseases; and

WHEREAS, HIV also renders people living with HIV susceptible to so-called “opportunistic cancers”; and

WHEREAS, according to the Florida Department of Health, the State identified 4,708 new HIV diagnoses in 2021; and

WHEREAS, Florida has one of the highest rates of HIV in the United States; and

WHEREAS, Florida is also one of the many states in the United States that has enacted laws that specifically criminalize certain behaviors by people living with HIV; and

WHEREAS, some of these statutes were originally enacted decades ago, when the scientific knowledge regarding HIV was substantially inferior; and

WHEREAS, for example, section 381.0041(11)(b), Florida Statutes, provides that any person living with HIV, who knows he or she is infected with HIV, and who has been informed that he or she may communicate this disease by donating blood, plasma, organs, skin, or other human tissue who donates blood, plasma, organs, skin, or other human tissue is guilty of a felony of the third degree; and

WHEREAS, section 381.0041(11)(b) contains no exemption for scenarios where donation by a person living with HIV has been deemed medically appropriate by a licensed physician; and

WHEREAS, similarly, section 775.0877(1), Florida Statutes, provides that certain criminal defendants must be tested for HIV when convicted of any one of a number of designated offenses involving the transmission of “body fluids”; and

WHEREAS, section 775.0877(1) does not specify that saliva is excluded from the definition of “body fluids” even though HIV is not transmitted through saliva; and

WHEREAS, section 775.0877(2), Florida Statutes, also provides that an individual tested for HIV pursuant to the statute who receives a positive result will be liable for the misdemeanor of criminal transmission of HIV if he or she commits a subsequent violation of one of the offenses designated in section 775.0877(1), Florida Statutes; and

WHEREAS, the United States Centers for Disease Control and Prevention (“CDC”) has opined that many of the criminal statutes targeting people living with HIV are outdated; and

WHEREAS, according to advocacy groups such as the Center for HIV Law and Policy and the HIV Medicine Association, there is little evidence that laws criminalizing the transmission of HIV influence the behavior of people living with HIV or those most at risk of acquiring HIV, and there is likewise little evidence that HIV-focused criminal laws have a measurable impact on the transmission of the disease; and

WHEREAS, medical advances in recent years have significantly improved the treatment options for HIV as well as prevention efforts; and

WHEREAS, multiple health groups and organizations across the globe, including the World Health Organization and the CDC, agree that people living with HIV cannot transmit the disease to sexual partners if they are taking medicine that allows them to achieve and maintain an undetectable viral load; and

WHEREAS, legislation has been introduced in past sessions of the Florida Legislature to address some of these outdated criminal penalties and to modernize statutes to be more consistent with modern scientific knowledge,

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

Section 1. Approves the foregoing recitals, which are incorporated herein by reference.

Section 2. Urges the Florida Legislature to enact legislation to reform and modernize laws that criminalize the transmission of HIV.

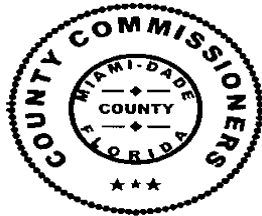
Section 3. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, the Senate President, the House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 4. Directs the County’s state lobbyists to advocate for the legislative action set forth in Section 2 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2024 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Senator René García. It was offered by Commissioner **Anthony Rodriguez** , 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:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of September, 2023. 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

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Christian J. Fernandez-Andes