

MEMORANDUM

Agenda Item No. 11(A)(3)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: February 19, 2025

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution relating to criminal history record checks for certain County and Public Health Trust employees and appointees; clarifying County policy regarding the review of criminal history background checks under section 2-30 of the Code for current employees prior to changing job positions or transferring between departments; amending Implementing Order No. 7-41 entitled "pre-employment fingerprint-based criminal history records check" consistent with this policy; authorizing and directing the County Mayor and Public Health Trust to establish rules and procedures consistent with this policy; directing the County Mayor and Public Health Trust to provide ongoing training to designated departmental personnel to assist them in reviewing criminal history findings and vetting employees

Resolution No. R-183-25

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kevin Marino Cabrera and Co-Sponsor Senator René García.


Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: February 19, 2025

FROM: 
Glen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(3)

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 ____, majority plus one ____, 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) ____, 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)(3)
2-19-25

RESOLUTION NO. R-183-25

RESOLUTION RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR CERTAIN COUNTY AND PUBLIC HEALTH TRUST EMPLOYEES AND APPOINTEES; CLARIFYING COUNTY POLICY REGARDING THE REVIEW OF CRIMINAL HISTORY BACKGROUND CHECKS UNDER SECTION 2-30 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA FOR CURRENT EMPLOYEES PRIOR TO CHANGING JOB POSITIONS OR TRANSFERRING BETWEEN DEPARTMENTS; AMENDING IMPLEMENTING ORDER NO. 7-41 ENTITLED "PRE-EMPLOYMENT FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK" CONSISTENT WITH THIS POLICY; AUTHORIZING AND DIRECTING THE COUNTY MAYOR AND PUBLIC HEALTH TRUST OR THEIR DESIGNEES TO ESTABLISH RULES AND PROCEDURES CONSISTENT WITH THIS POLICY; DIRECTING THE COUNTY MAYOR AND PUBLIC HEALTH TRUST OR THEIR DESIGNEES TO PROVIDE ONGOING TRAINING TO DESIGNATED DEPARTMENTAL PERSONNEL TO ASSIST THEM IN REVIEWING CRIMINAL HISTORY FINDINGS AND VETTING EMPLOYEES

WHEREAS, in 2005, Miami-Dade County instituted a policy for conducting criminal background checks of employees, applicants and others as more fully set forth in Administrative Order 7-41, pursuant to section 125.5801, Florida Statutes; and

WHEREAS, section 125.5801 was amended in 2013 to expand its scope; and

WHEREAS, section 125.5801 currently requires such criminal background check policies to be enacted as an ordinance approved by the Board of County Commissioners in order to permit state and national criminal history records checks for:

- (a) Any position of county employment or appointment, whether paid, unpaid, or contractual, which the governing body of the county finds is critical to security or public safety;

- (b) Any private contractor, employee of a private contractor, vendor, repair person, or delivery person who is subject to licensing or regulation by the county; or
- (c) Any private contractor, employee of a private contractor, vendor, repair person, for-hire chauffeur, or delivery person who has direct contact with individual members of the public or access to any public facility or publicly operated facility in such a manner or to such an extent that the governing body of the county finds that preventing unsuitable persons from having such contact or access is critical to security or public safety; and

WHEREAS, on March 17, 2015, this Board adopted Ordinance 15-20 to implement the requirements of section 125.5801, and through a companion resolution (Resolution No. R-257-15), rescinded Administrative Order 7-41 and replaced it with Implementing Order 7-41 to provide that the persons set forth above are subject to a criminal history background check through the Florida Department of Law Enforcement and the Federal Bureau of Investigation; and

WHEREAS, in 2015, this Board explained that Implementing Order 7-41 authorizes criminal history records checks of any position of county employment or appointment, whether paid, unpaid, or contractual, which is identified as critical to security or public safety; and any private contractor or employee of a private contractor who has direct contact with individual members of the public or access to any public facility or publicly-operated facility to such an extent that such contact or access is critical to security or public safety; and that the positions to which section 2-30 of the Code and Implementing Order 7-41 apply are critical with regard to security or to public safety; and

WHEREAS, such criminal history record checks include fingerprinting these individuals, and having the individual's fingerprints submitted to the Florida Department of Law Enforcement for a state criminal history background check and to the Federal Bureau of Investigation for a national criminal history records check; and

WHEREAS, the information obtained from the criminal history record checks has been used to determine the respective individual's eligibility for employment, appointment or access as authorized in Code Section 2-30 and section 125.5801, Florida Statutes; and

WHEREAS, after the adoption of Ordinance No. 15-20, state and federal authorities advised that references to implementing orders should be deleted from the County's ordinance to make clear that the authority for conducting criminal background checks is derived solely from an ordinance adopted by the governing body of the County, and accordingly, on December 6, 2016, the Board adopted Ordinance No. 16-135, amending section 2-30 of the Code of Miami-Dade County, Florida, to clarify that that the Board was authorizing state and national criminal history screenings by ordinance rather than implementing order; and

WHEREAS, on May 23, 2024, the Miami-Dade County Office of the Inspector General ("OIG") issued a memorandum, entitled "OIG Report of Investigation – Lack of County Policy Regarding Criminal History Checks for Interdepartmental Employee Transfers, Ref. IG23-0014-I," in which the OIG made the following recommendations:

1. The County and/or Human Resources should require County departments that are transferring employees from another county department to review the candidate's criminal history for evaluation consistent with County Code Section 2-31.
2. The County and/or Human Resources should develop guidelines or best practices specific to departmental transfers of personnel. This case highlights that the initial vetting of a County employee, due to the nature of the position sought, might meet County standards yet be insufficient to ensure the employee's qualifications meet any transferring departments' requirements.
3. Human Resources should provide training to all County-designated DPRs authorized to obtain and view criminal histories to assist them in interpreting any criminal history findings. Additional guidance is available through the Florida Department of Law Enforcement. DPRs should also be given periodic and refresher training on reviewing applications and

vetting information, specifically cross-referencing information,
and contacting previous employers and references; and

WHEREAS, upon consideration of the issues raised and recommendations in the OIG's report, this Board desires to clarify the County's policy to ensure that a criminal history records check under Section 2-30 of the Code shall be reviewed not only for new hires, but also for current employees of the County and Public Health Trust prior to changing job positions or transferring between departments; and

WHEREAS, to further clarify this policy, this Board wishes to amend Implementing Order 7-41, which governs comprehensive fingerprint-based criminal history record checks for County employees and appointees, in substantially the form attached hereto,

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

Section 1. This Board hereby approves and incorporates herein the foregoing recitals, and clarifies that it is the County's policy to review a comprehensive fingerprint-based criminal history records check under Section 2-30 of the Code on applicants, employees, volunteers, interns, contractors, and contractual temporary personnel prior to commencement of employment or service in, or transfer or reassignment to, a position with the County that has been identified as critical to security or public safety; and for any private contractor or employee of a private contractor who has direct contact with individual members of the public or access to any public facility or publicly-operated facility where such contact or access is critical to security or public safety. The review of criminal history information and its potential relevance to job responsibilities shall be a requirement prior to such employment, continuing employment, service, transfer, or reassignment, and no person shall be appointed or permitted to begin work or service in any such position with the County, or to have such contact or access, without an appropriate

level of review of this information by each department's hiring authority. Criminal history information should be used by hiring managers to make informed selection decisions and to minimize exposure to any post-employment misconduct.

Section 2. Implementing Order 7-41, entitled "Pre-Employment Fingerprint-Based Criminal History Records Check," is hereby amended in substantially the form attached hereto and incorporated herein.

Section 3. The County Mayor or County Mayor's designee is authorized to exercise all rights conferred in the Implementing Order.

Section 4. The County Mayor and Public Health Trust or their designees are authorized and directed to establish rules and procedures consistent with the policy established in this resolution and Section 2-30 of the Code. More specifically, the County Mayor and Public Health Trust are authorized and directed to develop guidelines or best practices specific to personnel who change job positions or transfer between departments.

Section 5. The County Mayor and Public Health Trust or their designees are directed to develop and provide training to all designated departmental personnel who have been authorized by the County or Public Health Trust to review criminal histories to assist them in interpreting any criminal history findings, utilizing any guidance that is available through the Florida Department of Law Enforcement. Such personnel should also be given periodic and refresher training on reviewing applications and vetting information, specifically cross-referencing information, and contacting previous employers and references.

The Prime Sponsor of the foregoing resolution is Commissioner Kevin Marino Cabrera and the Co-Sponsor is Senator René García. It was offered by Commissioner **Kionne L. McGhee**, who moved its adoption. The motion was seconded by Commissioner **Marleine Bastien** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of February, 2025. 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: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Marlon D. Moffett

Implementing Order



Implementing Order No.: IO 7-41

Title: ~~PRE-EMPLOYMENT~~ FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECKS FOR CERTAIN COUNTY APPLICANTS, EMPLOYEES AND APPOINTEES

Ordered: 3/17/2015

Effective: 3/27/2015

AUTHORITY:

Section 1.01 and 2.02 of the Miami-Dade County Home Rule Amendment and Charter; Section 2-30 of the Code of Miami-Dade County, and Section 125.5801, Florida Statutes.

SUPERSEDES:

This Implementing Order supersedes Implementing Order 7-41, approved by the Board on March 17, 2015 and effective March 27, 2015 ~~Administrative Order 7-41, approved by the Board on October 18, 2005 and effective October 28, 2005.~~

POLICY:

It is the policy of Miami-Dade County to perform review a comprehensive pre-employment fingerprint-based criminal history records check on applicants, employees, volunteers, interns, contractors, and contractual temporary personnel prior to commencement of employment or service in, or transfer or reassignment to, a position with the County, ~~who have that has~~ been identified as critical to security or public safety; and for any private contractor or employee of a private contractor who have has direct contact with individual members of the public or access to any public facility or publicly-operated facility where such contact or access is critical to security or public safety. The review of criminal history information and its potential relevance to job responsibilities is a pre-employment requirement prior to such employment, continuing employment, service, transfer, or reassignment, and no person shall be appointed or permitted to begin work or service in any such position with the County, or to have such contact or access, without an appropriate level of review of this information by each department's hiring authority. Criminal history information should be used by hiring managers to make informed selection decisions and to minimize exposure to any post-employment misconduct.

APPLICABILITY OF THIS ORDER:

The County's background check will be administered by the Human Resources Department (HRD) or its successor department and will include a pre-employment fingerprint-based criminal history records check through the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigations (FBI) databases prior to employment, continuing employment, service, transfer, or reassignment. As herein provided, all new hire employees, appointees, personnel and individuals as specified above will undergo such a background check, including new hire ~~employees of in positions within~~ certain County departments that are subject to special provisions of the Florida Statutes mandating fingerprint-based criminal history records checks that include an FDLE and FBI database search. Additionally, departments required to conduct special background checks under other Florida statutory requirements must comply with these provisions.

PROCEDURE:

It is vitally important to ensure the timely and fair use of such information as a component of Miami-Dade County's hiring, transfer, and reassignment processes.

Due to the sensitivity of information contained in the criminal history background checks

and the potential liability of maintaining and/or misusing such information, the Human Resources Department (Recruitment ~~and Internal Placement~~ and Fair Employment Practices sections or its successor department or office) will consult with the U.S. Equal Employment Opportunity Commission, Florida Department of Law Enforcement, Miami-Dade Police Department and the County Attorney's Office to maintain appropriate guidelines on the interpretation, utilization and safeguarding of criminal history information. This information will be disseminated to hiring departments through mandatory training that will be provided to those individuals responsible for requesting, interpreting, and maintaining the results of background checks to ensure that this information is used in a responsible manner that provides for fair, non-discriminatory treatment.

Pursuant to Chapter 435, Florida Statutes, cCriminal history and juvenile information and records obtained through the FDLE and FBI databases for employment screening purposes are exempt from public records requests_ and therefore must be maintained accordingly.

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