

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, URGING THE FLORIDA LEGISLATURE TO ADOPT LEGISLATION EXPRESSLY AUTHORIZING THE IMPOSITION OF STANDALONE STAY AWAY ORDERS FOR DEFENDANTS TO STAY AWAY FROM VICTIMS OR LOCATIONS AS PART OF CRIMINAL SENTENCING AND WITHOUT A CONDITION OF PROBATION.**

**WHEREAS**, until recently, judges in the County Court of the Eleventh Judicial Circuit in and for Miami-Dade County would regularly issue standalone stay away orders to defendants pursuant to the disposition of criminal cases (without a probationary period being issued), as a result of crimes tied to particular victims or locations, such as battery, petit theft, trespass, disorderly intoxication, and open containers of alcohol; and

**WHEREAS**, on November 25, 2020, the Eleventh Judicial Circuit Court, in its appellate capacity, in *Eric Freshman v. The State of Florida*, held that judges have no authority to issue standalone stay away orders because there is no explicit statutory provision which would allow them to do so, even when ordered pursuant to a plea agreement among the parties; and

**WHEREAS**, the Eleventh Judicial Circuit Court further stated that there is express statutory authorization permitting stay away orders as a condition of pretrial release, a condition of probation and as part of a sentence pertaining to certain domestic violence or stalking charges; and

**WHEREAS**, at the January 19, 2021 Police Citizen Relation Committee ("PCRC") meeting, the PCRC recommended that the City Commission support the legislative proposal of State Attorney Katherine Fernandez Rundle that would authorize judges to issue standalone stay away orders from victims or locations as part of criminal sentencing and without any order of probation; and

**WHEREAS**, the City has a substantial interest in judges' ability to issue standalone stay away orders and to enforce violations of contempt for such orders, when crimes are committed within the jurisdictional boundaries of the City of Miami Beach, specifically affecting residents, businesses and visitors; and

**WHEREAS**, the inability of judges to order those defendants who commit crimes tied to particular victims or locations, to stay away from such victims or locations, may create potentially dangerous situations which directly lead to additional criminal activity, disorderly conduct and/or quality of life offenses; and

**WHEREAS**, the Mayor and City Commission finds that it is in the best interest of its residents, businesses and visitors to adopt these regulations to protect the public health, safety and welfare.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby urge the Florida Legislature to adopt legislation expressly authorizing the imposition of standalone stay away orders for defendants to stay away from victims or locations as part of criminal sentencing and without a condition of probation.

**PASSED AND ADOPTED** this 10<sup>th</sup> day of February, 2021.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber, Mayor

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Rafael E. Granado, City Clerk

(Sponsored by Commissioners Michael Gongora and Mark Samuelian)

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date