

RESOLUTION NO. 2021- _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, URGING THE MIAMI-DADE STATE ATTORNEY'S OFFICE TO VIGOROUSLY PROSECUTE QUALIFYING REPEAT CRIMINAL OFFENDERS, PURSUANT TO FLORIDA'S HABITUAL MISDEMEANOR OFFENDER LAW, AS SET FORTH IN FLORIDA STATUTE 775.0837; AND FURTHER URGING THE ELEVENTH JUDICIAL CIRCUIT COURT OF FLORIDA, COUNTY COURT CRIMINAL DIVISION, TO APPROPRIATELY SENTENCE QUALIFYING HABITUAL MISDEMEANOR OFFENDERS IN ACCORDANCE WITH, AND TO THE FULLEST EXTENT PERMITTED BY, THE HABITUAL MISDEMEANOR OFFENDER LAW.

WHEREAS, the City continues to experience an increasingly large number of visitors, tourists and other individuals entering the City throughout the year; and

WHEREAS, an unacceptably large number of those entering the City commit quality of life criminal misdemeanor offenses while within the City; and

WHEREAS, on September 25, 2017, the Mayor and City Commission adopted Resolution No. 2017-30023, which authorized the City Attorney's Office to commence the in-house prosecution, by and through a City municipal prosecution team, of those individuals exclusively charged with violating the City's criminal ordinances; and

WHEREAS, the Miami-Dade State Attorney's Office (the "Miami-Dade SAO") continues to be the prosecutorial entity responsible for the prosecution of those offenders arrested for the commission of all felony, misdemeanor, and/or County ordinance violations (which also includes City ordinance violations if committed in conjunction with any felony, misdemeanor or County ordinance violation); and

WHEREAS, the Miami-Dade SAO and the Judges of the County Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, typically have considerable discretion pertaining to the prosecution and sentencing of those criminal cases involving misdemeanor offenses; and

WHEREAS, Fla. Stat. §775.0837 specifically sets forth the legally permissible sentencing options pertaining to habitual misdemeanor offenders convicted of specified misdemeanor offenses; and

WHEREAS, pursuant to Fla. Stat. §775.0837, a habitual misdemeanor offender is a defendant before the court for sentencing for a specified misdemeanor offense and having previously been convicted, as an adult, of committing four (4) or more specified misdemeanor offenses within the twelve (12) months preceding the commission of the offense for which such defendant is being sentenced; and

WHEREAS, specified misdemeanor offense, as that term is defined in Fla. Stat. §775.0837 includes, but is not limited to, the following offenses: assault, battery, prostitution, theft, trespass, disorderly intoxication, indecent exposure, and loitering or prowling; and

WHEREAS, pursuant to Fla. Stat. §775.0837, a defendant before the Court for

sentencing as a habitual misdemeanor offender, on a specified misdemeanor offense, must be sentenced to a term of imprisonment or detention, or a residential treatment program, for a period of at least six (6) months, unless the Court makes a finding that an alternative disposition is in the best interests of the community and the defendant; and

WHEREAS, in order to serve as an effective deterrent to repeat offenders and comply with the law, it is imperative that habitual misdemeanor offenders are vigorously prosecuted and appropriately sentenced pursuant to the habitual misdemeanor offender law.

NOW THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, hereby urge the Miami-Dade State Attorney's Office to vigorously prosecute qualifying repeat criminal offenders, pursuant to Florida's habitual misdemeanor offender law, as set forth in Florida Statute 775.0837; and further urge the Eleventh Judicial Circuit Court of Florida, County Court Criminal Division, to appropriately sentence qualifying habitual misdemeanor offenders in accordance with, and to the fullest extent permitted by, the habitual misdemeanor offender law.

PASSED and ADOPTED this _____ day of December, 2021.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Steven Meiner)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney **MAF** 11-30-21
Date