


COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Rafael A. Paz, City Attorney Second Reading/Public Hearing

DATE: June 28, 2023 

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 1 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "GENERAL PROVISIONS," BY AMENDING SECTION 1-14 THEREOF, ENTITLED "GENERAL PENALTY; CONTINUING VIOLATIONS," TO ESTABLISH PROBATION AS A POTENTIAL PENALTY THAT MAY BE IMPOSED FOR ANY CRIMINAL VIOLATION OF THE CITY CODE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed Ordinance (the "Ordinance"), sponsored by Commissioner Steven Meiner, is submitted for second reading/public hearing at the June 28, 2023 City Commission meeting after being unanimously approved, without modification, at first reading on May 17, 2023.

Presently, Section 1-14 of the City of Miami Beach Code of Laws and Ordinances provides that any violation(s) of the City's criminal ordinances shall be punished by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment.

Probation is not currently authorized as a potential penalty for defendants found in violation of the City's criminal ordinances. The proposed Ordinance would amend Section 1-14 of the City Code, to provide the legal authority for the City to tender probationary plea offers to criminal defendants, and further authorize the Court to place defendants prosecuted by the City's Municipal Prosecutors on probation. By including probation as a potential sentence for criminal municipal ordinance offenders, the City's Municipal Prosecutors can offer, and the Court can impose, certain mandatory conditions as part of the defendant's probationary sentence including, but not limited to, stay away orders and restitution. Moreover, any defendant found by the Court to be in violation of any condition(s) of his or her probation will be subject to potential consequences for violating probation, up to and including incarceration in County jail.