



**To:** Tom Ansbro, Esq., Dania Beach City Attorney

**From:** Kathryn M. Mehaffey, Esq.

**Date:** October 21, 2015

**Re:** Local Government responses to Broward County Ordinance No. 2015-45 regarding authorization of a Civil Citation (and the local opt out option) for cannabis possession

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We were asked to provide information on what local governments associated with the Firm are doing to address Broward County Ordinance No. 2015-45 (the "Ordinance"). Generally, the Ordinance provides discretion to law enforcement officers throughout Broward County to issue a Civil Citation, in lieu of a state misdemeanor charge, for the possession of twenty (20) grams or less of cannabis, under certain circumstances. The Ordinance provides criteria and procedures for first, second and third violations. Finally the Ordinance is applicable County-wide but provides that any local government may, by majority vote, enact a different or conflicting ordinance or may opt out of the Ordinance and continue to enforce existing state law. In addition to the local governments which we represent, I contacted several other Broward County entities. Below, I have identified how they are proceeding.

- Cooper City will be considering whether or not to opt out on January 26, 2016
- The Miramar City Commission will be discussing the issue on January 27, 2016.
- The Weston City Commission will be discussing the issue on January 18, 2016.
- Parkland has chosen not to opt-out.
- Hallandale approved a resolution in August, 2015 authorizing the issuance of civil citations for the possession of a misdemeanor amount of marijuana. (attached)

The following Cities have not taken action to date.

- Coral Springs
- Deerfield Beach
- Hollywood
- Lauderdale-By-The-Sea
- Pompano Beach

Of note, On June 30, 2015, Miami-Dade County adopted an ordinance providing for civil penalties for the commission of certain misdemeanors including the possession of cannabis in an amount of 20 grams or less. The Miami-Dade ordinance is applicable County-wide and does not have an opt-out provision. On July 8, 2015, the Miami Beach City Commission also adopted similar legislation. Both ordinances are attached.

An issue raised by one municipality was the question of whether, with the citations being processed through the County, the issuing local government would receive any portion of the fees/fines. Other issues which might be considered when evaluating decriminalization include:

- 1) What amount is deemed to be minor? Currently, Miami-Dade County, Miami Beach and Broward County all set the limit at 20 grams.
- 2) What are the exceptions for when a civil citation could (or could not) be issued - would an offender who has a criminal record be issued a civil citation?
- 3) How should recurring violations be dealt with?
- 4) Should law enforcement have the power/discretion to arrest along with providing for a civil citation option?
- 5) Will the civil citation option apply to both juvenile and adult offenders?
- 6) What should be the amount of the fine? Are there exceptions for indigents or any others?
- 7) How is the citation processed and is it appealable? How?

If you would like a more extensive survey, I would recommend waiting until the middle of February. While the County has asked for responses by February 5, 2016, I do not see where the Ordinance itself provides a limited opt-out window.

Attachments:

Hallandale Resolution  
Miami-Dade County Ordinance Packet  
Miami Beach Ordinance