MEMORANDUM

Date: January 7th, 2025 City Commission meeting

To: The City Commission for the City of Key West

From: Ryan Waterhouse, Assistant City Attorney

Subject: Proposed Ordinance to Incorporate Florida Statute 943.0438 into City Code for Youth Athletic Coach Requirements

Sponsors: Danise Henriquez, Mayor

Background

The Florida Legislature amended Florida Statute 943.0438 in 2023 and again in 2024 to protect children participating in youth athletic activities by requiring background checks and concussion protocols for coaches and others who work closely with minors. Specifically, independent sanctioning authorities, private, nongovernmental entities that organize or coordinate youth athletic teams, must conduct Level 2 background screenings on all athletic coaches who have direct contact with youth athletes. The statute mandates that any disqualifying information found during these screenings, such as, but not limited to, convictions for certain violent, sexual, or drug-related crimes, prevents an individual from coaching unless he or she successfully obtains an exemption. This law was introduced in response to a growing awareness of the risks posed by unscreened coaches and the dangers of untreated sports-related head injuries. In addition to its screening provisions, Florida Statute 943.0438 establishes a concussion protocol framework, requiring that coaches receive concussion education and remove any athlete suspected of having sustained a head injury until medically cleared to return to play.

These requirements draw heavily on Florida Statutes 435.04 and 435.07. Florida Statute 435.04 outlines the procedures for Level 2 background screenings, which include fingerprint-based checks through the Florida Department of Law Enforcement and the Federal Bureau of Investigation. It disqualifies any individual found to have certain violent, sexual, or felony-level drug convictions, among other offenses specified in the statute. Coaches who are disqualified under these standards may, however, seek an exemption under Florida Statute 435.07 if they can show clear and

convincing evidence of rehabilitation and their offense does not fall within a permanent ban category, such as those requiring registration as a sexual offender.
Under Florida Statute 943.0438, all youth athletic programs must also adopt guidelines to educate athletes, coaches, and parents about concussions and immediately remove any player suspected of having sustained a head injury. These statutory requirements include an implementation timeline: by January 1, 2025, all coaches must undergo Level 2 screenings, and by January 1, 2026, anyone who fails the screening cannot coach unless a successfully obtained exemption applies. The statute also requires the use of a signed acknowledgment from parents or guardians regarding concussion risks.

This ordinance integrates these state mandates by incorporating Florida Statute 943.0438 by reference and specifying that it applies to all independent sanctioning authorities or clubs using City-owned or City-controlled fields, parks, or recreational facilities. In addition, any league receiving City funding is subject to the same requirements. As part of these regulations, leagues must submit bylaws recognized by established national organizations to the City Manager within 30 days of the ordinance's effective date. These bylaws must reflect the mandated background checks, disqualification standards, concussion protocols, and procedures for removing injured athletes from play. All concession and ancillary agreements must similarly be provided to the City Manager within 14 days.

Furthermore, compliance with state law and the ordinance is a condition of obtaining and maintaining a Field Use Agreement from the City. A violation of these requirements can result in suspension or revocation of both the Field Use Agreement and any City funding provided, following a hearing in which the league or club may respond. If the City Manager determines the league has met all compliance steps, a suspended agreement can be reinstated. There is also an appeal process that allows a league or club to challenge the City Manager's decision by filing notice with the City Clerk within 10 business days.

By adopting these requirements into local ordinance, the City of Key West aligns its policies with state law to better safeguard youth athletes. This measure ensures comprehensive screening of coaches, adheres to concussion protocols, and provides a transparent enforcement process, thus promoting a safer environment for children involved in organized sports within the City.

Cost

No cost to the City of Key West

Options:

1. PASS the proposed ordinance, thereby integrating Florida Statute 943.0438 and its Level 2 background screening, concussion protocols, and removal-from-play requirements into the City's Code of Ordinances. Passing this ordinance ensures that any independent sanctioning authority or youth athletic league using City fields or receiving City funds must comply with state mandates regarding coach vetting and athlete safety. The ordinance also establishes a clear process for submitting and approving bylaws, outlines procedures for

concession and ancillary agreements, and provides enforcement mechanisms, including suspension or revocation of field use agreements and City funding for noncompliance.

2. DENY the proposed ordinance, leaving the City without a formal local enforcement structure to require background screenings and concussion protocols from leagues operating on City property or receiving municipal subsidies. The existing legal framework under Florida Statute 943.0438 would still apply statewide; however, without this ordinance, the City would have limited ability to oversee or enforce these requirements for users of City facilities.

Recommendation:

Pass the proposed ordinance.