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ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-482

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 2006

Codification District of Columbia Official Code

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To establish criminal offenses for recruiting members for criminal street gangs, causing a person to participate in or remain in a criminal street gang, and participating in any felony or violent misdemeanor on behalf of the street gang; to provide for enhanced criminal penalties of up to 1 ½ times the maximum otherwise provided by law for those adults who commit crimes of violence against minors; to establish a criminal offense for an adult causing a minor to engage in certain status offenses or delinquent acts; to authorize the Chief of Police to declare any public area a prostitution free zone for a period not to exceed 240 hours, and to establish a criminal offense for persons congregating within such a zone for purposes of prostitution after being ordered to disperse; to establish a criminal offense for installing an electronic recording device, mirror, or peephole in such manner as to surreptitiously observe individuals engaged in personal activities including sexual relations, changing clothes, or using a restroom, or for recording any of those activities; to establish a criminal offense for intimidating, impeding, interfering with, or retaliating against a public official or an employee of the District of Columbia; to establish a criminal offense for disabling a telephone or other communicative device for the purpose of preventing a victim from summoning medical or police assistance, or from reporting acts of child abuse or neglect; to amend the Interpreters for Hearing-Impaired and Non-English Speaking Persons Act of 1987 to clarify definitions of communication-impaired and hearing-impaired persons, to require the Metropolitan Police Department to certify qualified interviewers and develop regulations for certifying qualified interviewers, and to expand the list of those entities qualified to certify interpreters to include the United States Department of State and the Metropolitan Police Department; to amend the Prevention of Child Abuse and Neglect Act of 1977 to clarify the requirements of and procedures for criminal background checks for persons who are caring for or residing with children who had been abused or neglected; to amend An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children to expand the list of individuals who must report child neglect and the circumstances which mandate that a report be made, and to increase penalties for failure to report child neglect; to amend the Criminal

Background Checks for the Protection of Children Act of 2004 to clarify procedures for criminal background checks required of persons working with children or youth, and to establish standards for assessing the information obtained; to amend the Firearms Control Regulations Act of 1975 to enhance the penalties for possessing armor piercing ammunition to a maximum term of 10 years imprisonment and a mandatory-minimum term of one year; to amend Title 16 of the District of Columbia Official Code to add stalking and offenses by a person against another who has or has had a relationship with the same individual to the list of intrafamily offenses, to provide that the court may consider a child's failure to appear at a scheduled juvenile hearing in determining the disposition of a child adjudicated delinquent, and to require the court to provide to the Council certain information on juveniles who fail to appear at scheduled hearings in delinquency cases; to amend An Act To establish a code of law for the District of Columbia to establish a criminal offense for an enhanced assault that causes significant bodily injury, to establish criminal offenses for solicitation of murder and any other crime of violence, to clarify the elements of and increase the penalties for harboring a child from the custody and control of the child's parents or guardian, and to provide that the presence of a person on property that is boarded-up or otherwise secured shall be prima facie evidence that the person has entered against the will of the person in legal possession of the property; to amend section 432 of the Revised Statutes relating to the District of Columbia to create 2 levels of the offense of assault on a police officer to include a misdemeanor offense and a 10-year felony where significant bodily injury is involved, and to expand the definition of those police officers covered to include all law enforcement officers in the District of Columbia; to amend An act for the preservation of the public peace and the protection of property within the District of Columbia to clarify the elements of offenses involving lewd, indecent, or obscene acts or proposals; to amend An Act For the suppression of prostitution in the District of Columbia to make it unlawful for any person to engage in or to solicit for prostitution, to provide procedures for the seizure and impoundment of vehicles used in furtherance of prostitution-related offenses, and to establish a fund into which funds collected for the assessment of civil penalties and fees related to the impoundment of vehicles used in furtherance of prostitution-related offenses shall be deposited; to amend the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981 to provide universal definitions applicable to all of the prostitution-related statutes; to amend An Act in relation to pandering, to define and prohibit the same and to provide for the punishment thereof to increase criminal penalties for pandering, procuring, or arranging for a person under 18 years of age, and to clarify elements of those offenses; to amend An Act To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases to increase criminal penalties for keeping bawdy or disorderly houses; to amend the Anti-Sexual Abuse Act of 1994 to make it unlawful for an adult in a

significant relationship with a minor to engage in sexual activity, to make it unlawful for any staff member to engage in sexual activity with wards, patients or inmates, to make it unlawful for a person purporting to treat another to falsely represent that he or she is licensed as a particular type of professional, to make it unlawful to seduce a child or a minor in a significant relationship, and to create the offense of misdemeanor sexual abuse of a child or minor; to amend the District of Columbia Theft and White Collar Crimes Act of 1982 to expand the enhancement provisions for crimes committed against the elderly to include any crime of violence, to establish the criminal offense of altering or removing vehicle identification numbers from motor vehicles or parts of motor vehicles, and to clarify the standards for assessment of penalties for identity theft; to amend the Sex Offender Registration Act of 1999 to expand the definition of sexual offenses that require sex offender registration; to amend the HIV Testing of Certain Criminal Offenders Act of 1995 to expand the definition of "victims" to include domestic partners; to amend An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes to increase the number of locations designated as gun free zones and enhance the penalties for violations; to amend Title 23 of the District of Columbia Official Code to permit either the United States Attorney's Office or the Office of the Attorney General for the District of Columbia to appeal a trial court order granting a new trial after verdict or judgment, or a decision or order denying a motion for revocation of, or modification of, the conditions of release, to expand the applicable statute of limitations to include offenses that are properly joinable with particular offenses, and to expand the list of offenses that constitute a "crime of violence"; to amend the District of Columbia Uniform Controlled Substances Act of 1981 to increase the applicable drug free zones to include areas in and around housing owned, operated, or financially assisted by the District of Columbia Housing Authority; to amend the Anti-Loitering/Drug Free Zone Act of 1996 to increase the duration of drug free zones from 120 to 240 hours; to amend the Drug Paraphernalia Act of 1982 to include cigarette rolling papers and cigar leaf wrappers within the definition of "drug paraphernalia," to provide circumstances under which a court may infer that small plastic or zip-lock bags and various pipes are being sold as drug paraphernalia, and to make it unlawful, with certain exceptions, to sell cocaine free base kits, certain glass or ceramic tubes, cigarette rolling papers, or cigar leaf wrappers in the District of Columbia; and to amend the District of Columbia Traffic Act, 1925, to impose a revocation of, or ineligibility to receive, an operator's permit for individuals convicted of an offense involving the use of a stolen vehicle or adjudicated a juvenile delinquent as a result of the commission of an offense involving the use of a stolen vehicle or where the individual was convicted of certain traffic offenses.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Public Safety Amendment Act of 2006".

TITLE I

Sec. 101. Criminal street gangs.

(a)(1) It is unlawful for a person to solicit, invite, recruit, encourage, or otherwise cause, or attempt to cause, another individual to become a member of, remain in, or actively participate in what the person knows to be a criminal street gang.

(2) A person convicted of a violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than 6 months, or both.

(b)(1) It is unlawful for any person who is a member of or actively participates in a criminal street gang to knowingly and willfully participate in any felony or violent misdemeanor committed for the benefit of, at the direction of, or in association with any other member or participant of that criminal street gang.

(2) A person convicted of a violation of this subsection shall be fined not more than $5,000 or imprisoned for not more than 5 years, or both.

(c)(1) It is unlawful for a person to use or threaten to use force, coercion, or intimidation against any person or property, in order to:

(A) Cause or attempt to cause an individual to:

(i) Join a criminal street gang;

(ii) Participate in activities of a criminal street gang;

(iii) Remain as a member of a criminal street gang; or

(iv) Submit to a demand made by a criminal street gang to commit a felony in violation of the laws of the District of Columbia, the United States, or any other state;

or

(B) Retaliate against an individual for a refusal to:

(i) Join a criminal street gang;

(ii) Participate in activities of a criminal street gang;

(iii) Remain as a member of a criminal street gang; or

(iv) Submit to a demand made by a criminal street gang to commit a felony in violation of the laws of the District of Columbia, the United States, or any other state.

(2) A person convicted of a violation of this subsection shall be fined not more than $10,000 or imprisoned for not more than 10 years, or both.

(d) The penalties under this section are in addition to any other penalties permitted by law.

(e) For the purposes of this section, the term:

(1) "Criminal street gang" means an association or group of 6 or more persons that:

(A) Has as a condition of membership or continued membership, the committing of or actively participating in committing a crime of violence, as defined by D.C. Official Code § 23-1331(4); or

(B) Has as one of its purposes or frequent activities, the violation of the criminal laws of the District, or the United States, except for acts of civil disobedience.

(2) "Violent misdemeanor" shall mean:

(A) Destruction of property (D.C. Official Code § 22-303);

(B) Simple assault (D.C. Official Code § 22-404(a));

(C) Stalking (D.C. Official Code § 22-404(b));

(D) Threats to do bodily harm (D.C. Official Code § 22-407);

(E) Criminal abuse or criminal neglect of a vulnerable adult (D.C. Official Code § 22-936(a));

(F) Cruelty to animals (D.C. Official Code § 22-1001(a)); and

(G) Possession of prohibited weapon (D.C. Official Code § 22-4514).

Sec. 102. Enhanced penalties for crimes against minors.

(a) Any adult, being at least 2 years older than a minor, who commits a crime of violence against that minor may be punished by a fine of up to 1 ½ times the maximum fine otherwise authorized for the offense and may be imprisoned for a term of up to 1 ½ times the maximum term of imprisonment otherwise authorized for the offense, or both.

(b) It is an affirmative defense that the accused reasonably believed that the victim was not a minor at the time of the offense. This defense shall be established by a preponderance of the evidence.

(c) For the purposes of this section, the term:

(1) "Adult" means a person 18 years of age or older at the time of the offense.

(2) "Crime of violence" shall have the same meaning as provided in D.C. Official Code § 23- 1331(4).

(3) "Minor" means a person under 18 years of age at the time of the offense.

Sec. 103. Contributing to the delinquency of a minor.

(a) It is unlawful for an adult, being 4 or more years older than a minor, to invite, solicit, recruit, assist, support, cause, encourage, enable, induce, advise, incite, facilitate, permit, or allow the minor to:

(1) Be truant from school;

(2) Possess or consume alcohol or, without a valid prescription, a controlled substance as that term is defined in section 102(4) of the District of Columbia Uniform

Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.02(4));

(3) Run away for the purpose of criminal activity from the place of abode of his or her parent, guardian, or other custodian;

(4) Violate a court order;

(5) Violate any criminal law of the District of Columbia for which the penalty constitutes a misdemeanor, except for acts of civil disobedience;

(6) Join a criminal street gang as that term is defined in section 101(e)(1); or

(7) Violate any criminal law of the District of Columbia for which the penalty constitutes a felony, or any criminal law of the United States, or the criminal law of any other jurisdiction that involves conduct that would constitute a felony if committed in the District of Columbia, except for acts of civil disobedience.

(b)(1) Except as provided in paragraphs (2), (4) and (5) of this subsection, a person convicted of violating subsection (a)(1)-(6) of this section shall be fined not more than $1,000, or imprisoned for not more than 6 months, or both.

(2) A person convicted of violating subsection (a)(2)-(6) of this section, having previously been convicted of an offense under subsection (a)(2)-(6) of this section or a substantially similar offense in this or any other jurisdiction, shall be fined not more than $3,000 or imprisoned for not more than 3 years, or both.

(3) Except as provided in paragraphs (4) and (5) of this subsection, a person convicted of violating subsection (a)(7) of this section shall be fined not more than $5,000 or imprisoned for not more than 5 years, or both.

(4) A person convicted of violating subsection (a) of this section that results in serious bodily injury to the minor or any other person shall be fined not more than $5,000 or imprisoned for not more than 5 years, or both.

(5) A person convicted of violating subsection (a) of this section that results in the death of the minor or any other person shall be fined not more than $10,000 or imprisoned for not more than 10 years, or both.

(c) The penalties under this section are in addition to any other penalties permitted by law.

(d) It is not a defense to a prosecution under this section that the minor does not engage in, is not charged with, is not adjudicated delinquent for, or is not convicted as an adult, for any conduct set forth in subsection (a)(1)-(7) of this section.

(e) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute a violation of subsection (a) of this section for which the penalty is set forth in subsection (c)(1) of this section.

(f) For the purposes of this section, the term:

(1) "Adult" means a person 18 years of age or older at the time of the offense.

(2) "Minor" means a person under 18 years of age at the time of the offense.

Sec. 104. Prostitution free zones.

(a) For the purposes of this section, the term:

(1) "Chief of Police" means the Chief of the Metropolitan Police Department.

(2) "Disperse" means to depart from the designated prostitution free zone and not to reassemble within the prostitution free zone with anyone from the group ordered to depart for the duration of the zone.

(3) "Known participant in prostitution or prostitution-related offenses" means a person who has been convicted in any court in any jurisdiction of any violation involving prostitution or prostitution-related offenses.

(4) "MPD" means the Metropolitan Police Department.

(5) "Prostitution" shall have the same meaning as provided in section 2(3) of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; D.C. Official Code § 22-2701.01(3)).

(6) "Prostitution free zone" means public space or public property in an area not to exceed a square of 1000 feet on each side that is established pursuant to subsection (b) of this section.

(7) "Prostitution-related offenses" means those crimes and offenses defined in An Act For the suppression of prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Official Code § 22-2701 *et seq.*); section 2 of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; D.C. Official Code § 22-2701.01); section 813 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22-2704); An Act In relation to pandering, to define and prohibit the same and to provide for the punishment thereof, approved June 25, 1910 (36 Stat. 833; D.C. Official Code § 22-2705 *et seq.*); An Act To enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof, approved February 7, 1914 (38 Stat. 280; D.C. Official Code § 22-2713 *et seq.*); and section 1 of An Act To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat.192; D.C. Official Code § 22-2722).

(b)(1) The Chief of Police may declare any public area a prostitution free zone for a period not to exceed 240 consecutive hours. The Chief of Police shall inform his commanders, the Mayor, and the Council of the declaration of a prostitution free zone.

(2) In determining whether to designate a prostitution free zone, the Chief of Police shall find the following:

(A) The occurrence of disproportionately high arrests for prostitution or prostitution-related offenses, and calls for police service because of prostitution or prostitution-related offenses in the proposed prostitution free zone within the preceding 6-month period;

(B) Objective evidence or verifiable information that shows that disproportionately high incidence of prostitution or prostitution-related offenses are occurring on public space or public property within the proposed prostitution free zone; and

(C) Any other verifiable information from which the Chief of Police may ascertain whether the public health or safety is endangered by prostitution or prostitution-related offenses in the prostitution free zone.

(c) Upon the designation of a prostitution free zone, the MPD shall mark each block within the prostitution free zone by using barriers, tape, signs, or police officers that post or announce the following information in the immediate area of, and borders around, the prostitution free zone:

(1) A statement that it is unlawful for a person to congregate in a group of 2 or more persons for the purposes of prostitution or prostitution-related offenses within the boundaries of a prostitution free zone, and fail to disperse after being instructed to disperse by a uniformed officer of the MPD, or a non-uniformed officer of the MPD upon display of MPD identification, who reasonably believes the person is congregating for the purpose of engaging in prostitution or prostitution-related offenses;

(2) The boundaries of the prostitution free zone;

(3) A statement of the effective dates of the prostitution free zone designation; and

(4) Any other additional information the Chief of Police provides.

(d)(1) It shall be unlawful for a person to congregate in a group of 2 or more persons on public space or public property within the perimeter of a prostitution free zone established pursuant to subsection (b) of this section and thereafter to fail to disperse after being instructed to disperse by a uniformed officer of the MPD, or a non-uniformed officer of the MPD upon display of MPD identification, who reasonably believes the person is congregating for the purpose of engaging in prostitution or prostitution-related offenses.

(2) In making a determination that a person is congregating in a prostitution free zone for the purpose of engaging in prostitution or prostitution-related offenses, the totality of the circumstances involved shall be considered. Among the circumstances which may be considered in determining whether such purpose is manifested are:

(A) The conduct of a person being observed, including that such person is behaving in a manner raising a reasonable belief that the person is engaging or is about to engage in prostitution or prostitution-related offenses, such as:

(i) Repeatedly beckoning to, stopping, attempting to stop, or attempting to engage passers-by in conversation for the purpose of prostitution;

(ii) Stopping or attempting to stop motor vehicles for the purpose of prostitution; or

(iii) Repeatedly interfering with the free passage of other persons for the purpose of prostitution;

(B) Information from a reliable source indicating that a person being observed routinely engages in or is currently engaging in prostitution or prostitution-related offenses within the prostitution free zone;

(C) Physical identification by an officer of the person as a member of a gang or association which engages in prostitution or prostitution-related offenses;

(D) Knowledge by an officer that the person is a known participant in prostitution or prostitution-related offenses; and

(E) Knowledge by an officer that any vehicle involved in the observed circumstances is registered to a known participant in prostitution or prostitution-related offenses, or a person for whom there is an outstanding arrest warrant for a crime involving prostitution or prostitution-related offenses.

(e) Any person who violates this section shall, upon conviction, be subject to a fine of not more than $300, imprisonment for not more than 6 months, or both.

(f) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute all violations of this section.

Sec. 105. Voyeurism.

(a) For the purposes of this section, the term:

(1) "Electronic device" means any electronic, mechanical, or digital equipment that captures visual or aural images, including cameras, computers, tape recorders, video recorders, and cellular telephones.

(2) "Private area" means the naked or undergarment-clad genitals, pubic area, anus, or buttocks, or female breast below the top of the areola.

(b) Except as provided in subsection (e) of this section, it is unlawful for any person to occupy a hidden observation post or to install or maintain a peephole, mirror, or any electronic device for the purpose of secretly or surreptitiously observing an individual who is:

(1) Using a bathroom or rest room;

(2) Totally or partially undressed or changing clothes; or

(3) Engaging in sexual activity.

(c)(1) Except as provided in subsection (e) of this section, it is unlawful for a person to electronically record, without the express and informed consent of the individual being recorded, an individual who is:

(A) Using a bathroom or rest room;

(B) Totally or partially undressed or changing clothes; or

(C) Engaging in sexual activity.

(2) Express and informed consent is only required when the individual engaged in these activities has a reasonable expectation of privacy.

(d) Except as provided in subsection (e) of this section, it is unlawful for a person to intentionally capture an image of a private area of an individual, under circumstances in which the individual has a reasonable expectation of privacy, without the individual's express and informed consent.

(e) This section does not prohibit the following:

(1) Any lawful law enforcement, correctional, or intelligence observation or surveillance;

(2) Security monitoring in one's own home;

(3) Security monitoring in any building where there are signs prominently displayed informing persons that the entire premises or designated portions of the premises are under surveillance; or

(4) Any electronic recording of a medical procedure which is conducted under circumstances where the patient is unable to give consent.

(f)(1) A person who violates subsection (b), (c), or (d) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both.

(2) A person who distributes or disseminates, or attempts to distribute or disseminate, directly or indirectly, by any means, a photograph, film, videotape, audiotape, compact disc, digital video disc, or any other image or series of images or sounds or series of sounds that the person knows or has reason to know were taken in violation of subsection (b), (c), or (d) of this section is guilty of a felony and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than 5 years, or both.

(g) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute a violation of subsection (b), (c), or (d) of this section for which the penalty is set forth in subsection (f)(1) of this section.

Sec. 106. Protection of District public officials.

(a) For the purposes of this section, the term:

(1) "Family member" means an individual to whom the official or employee of the District of Columbia is related by blood, legal custody, marriage, domestic partnership, having a child in common, the sharing of a mutual residence, or the maintenance of a romantic relationship not necessarily including a sexual relationship.

(2) "Official or employee" means a person who currently holds or formerly held a paid or unpaid position in the legislative, executive, or judicial branch of government of the District of Columbia, including boards and commissions.

(b) A person who corruptly or, by threat or force, or by any threatening letter or communication, intimidates, impedes, interferes with, or retaliates against, or attempts to

intimidate, impede, interfere with, or retaliate against any official or employee, while the official or employee is engaged in the performance of his or her duties or on account of the performance of those duties, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.

(c) A person who stalks, threatens, assaults, kidnaps, or injures any official or employee or vandalizes, damages, destroys, or takes the property of an official or employee, while the official or employee is engaged in the performance of his or her duties or on account of the performance of those duties, shall be fined not more than $3,000 or imprisoned not more than 3 years, or both, in addition to any other penalties authorized by law.

(d) A person who stalks, threatens, assaults, kidnaps, or injures a family member or vandalizes, damages, destroys, or takes the property of a family member on account of the performance of the official or employee's duties, shall be fined not more than $3,000 or imprisoned not more than 3 years, or both, in addition to any other penalties authorized by law.

Sec. 107. Obstructing, preventing, or interfering with reports to or requests for assistance from law enforcement agencies, medical providers, or child welfare agencies.

(a) It shall be unlawful for a person to knowingly disconnect, damage, disable, temporarily or permanently remove, or use physical force or intimidation to block access to any telephone, radio, computer, or other electronic communication device with a purpose to obstruct, prevent, or interfere with:

(1) The report of any criminal offense to any law enforcement agency;

(2) The report of any bodily injury or property damage to any law enforcement agency;

(3) A request for ambulance or emergency medical assistance to any governmental agency, or any hospital, doctor, or other medical service provider; or

(4) The report of any act of child abuse or neglect to a law enforcement or child welfare agency.

(b) A person who violates subsection (a) of this section shall be fined not more than $1,000 or imprisoned not more than 180 days, or both.

TITLE II

Sec. 201. The Interpreters for Hearing-Impaired and Non-English Speaking Persons Act of 1987, effective January 28, 1988 (D.C. Law 7-62; D.C. Official Code § 2-1901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 2-1901) is amended as follows: **Amend § 2-1901**

(1) Paragraph (2) is amended by striking the phrase "a person whose hearing is impaired or who does not speak English." and inserting the phrase "a hearing-impaired person or a non-English or limited-English speaking person." in its place.

(2) Paragraph (3) is amended by striking the word "speech" and inserting the phrase "speech, and, if the communication at issue is in writing, who cannot communicate effectively in the written English language" in its place.

(3) Paragraph (4) is amended by adding after the phrase "Non-English" the phrase "or limited-English" and adding after the phrase "spoken" the phrase "or written".

(4) Paragraph (5) is amended to read as follows:

"(5) "Qualified interpreter" means a person who is listed by the Office of Court Interpreter Services or the United States Department of State as being, or is otherwise found by the court to be, skilled in the language or form of communication needed to communicate fluently with a communication-impaired person and to translate or interpret information accurately to and from the communication-impaired person.".

(5) Redesignate paragraph (6) as paragraph (3A).

(6) A new paragraph (6) is added to read as follows:

"(6) "Qualified interviewer" means a person who is certified by the Metropolitan Police Department as being, or is otherwise found by the court to be, skilled in the language or form of communication needed to communicate fluently with a communication-impaired person.".

(b) Section 3(e) (D.C. Official Code § 2-1902(e)) is amended to read as follows: **Amend § 2-1902**

"(e)(1) Whenever a communication-impaired person is arrested and taken into custody for an alleged violation of a criminal law, the arresting officer shall either:

"(A) Procure a qualified interpreter to translate or interpret information to and from the person during any custodial interrogation, warning, notification of rights, or taking of a written or oral statement; or

"(B) Have a qualified interviewer conduct the custodial interrogation, warning, notification of rights, or taking of a written or oral statement in a language other than English, including sign language.

"(2) No person who has been arrested but who is otherwise eligible for release shall be held in custody pending arrival of a qualified interpreter or qualified interviewer.

"(3) No answer, statement, or admission, written or oral, made by a communication-impaired person in reply to a question of a law enforcement officer may be used against that communication-impaired person in any criminal or delinquency proceeding unless the answer, statement, or admission was made or elicited through either a qualified interpreter or a qualified interviewer and was made knowingly, voluntarily, and intelligently or, in the case of a waiver, unless the court makes a special finding upon proof by a preponderance of the evidence that the answer, statement, or admission made by the communication-impaired person was made knowingly, voluntarily, and intelligently.

"(4) A qualified interpreter shall be used to translate any statement taken by a qualified interviewer into English for use in any criminal or delinquency proceeding.".

(c) A new section 13a is added to read as follows:

"Sec. 13a. Procedures to certify qualified interviewers.

"Within 180 days of July 19, 2006, the Chief of Police shall develop and implement a General Order establishing procedures to certify qualified interviewers. The procedures shall include reasonable standards for evaluating the qualifications and credentials of persons who may serve as qualified interviewers. The standards shall take into consideration such factors as native speaking, education, training, experience, and demonstrated competence.".

Sec. 202. Title IIIA of the Prevention of Child Abuse and Neglect Act of 1977, effective June 27, 2000 (D.C. Law 13-136; D.C. Official Code § 4-1305.01 *et seq.*), is amended as follows:

(a) Section 321 (D.C. Official Code § 4-1305.01) is amended as follows: **Amend § 4-1305.01**

(1) Paragraph (4) is amended to read as follows:

"(4) "Criminal record check" means a search of criminal records to determine whether an individual has a criminal conviction that is performed by the Federal Bureau of Investigation of national records, and by:

"(A) The Metropolitan Police Department, if the individual as an adult has resided, worked, or attended school in the District at any time in the past 5 years; or

"(B) The state's law enforcement agency, if the individual as an adult has resided, worked, or attended school outside of the District at any time in the past 5 years.".

(2) A new paragraph (6A) is added to read as follows:

"(6A) "Information form" means a written statement in a form established by the Agency that:

"(A) Is signed by the individual under penalty of perjury;

"(B) Identifies each state in which the individual has resided, worked, or attended school at any time in the past 5 years;

"(C) Identifies each felony for which the individual has been convicted as an adult, and the date and state of that conviction;

"(D) Identifies each state in which the individual is currently on parole or probation; and

"(E) Includes any other information required by the Agency.".

(b) Section 323(a) (D.C. Official Code § 4-1305.03(a)) is amended to read as follow: **Amend § 4-1305.03**

"(a) Within the time stated in subsection (b) of this section, an applicant shall apply for a criminal records check by submitting to the Agency, licensed child-placing agency, or the police:

"(1) A complete set of legible fingerprints taken on standard fingerprint cards by the Agency or the police;

"(2) Payment of the fees and costs of the criminal records check as described in section 324;

"(3) The completed information form; and

"(4) Any documentation required to conduct a criminal records check by a state identified in the completed information form.".

(c) Section 325 (D.C. Official Code § 4-1305.05) is amended as follows:

Amend § 4-1305.05

(1) Subsection (a) is amended to read as follows:

"(a) The Agency or licensed child-placing agency shall forward complete sets of legible fingerprints taken on standard fingerprints cards by the Agency or licensed child-placing agency to the police or state law enforcement agency.".

(2) Subsection (c) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection, the Agency or licensed child-placing agency shall request the law enforcement agency of each state identified in the completed information form to conduct a state criminal records check and return the results to the Agency or licensed child-placing agency, as appropriate.

"(2) If the Agency or licensed child-placing agency has already determined that an individual has a disqualifying conviction, it is not required to make further requests to additional states.

"(3) The Agency or licensed child-placing agency may also use interstate databases or systems to conduct a single check for multiple states.".

Sec. 203. An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 4-1321.02) is amended as follows:

Amend § 4-1321.02

(1) Subsection (a) is amended by striking the phrase "Child Protective Services Division of the Department of Human Services" and inserting the phrase "Child and Family Services Agency" in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the word "include" and insert the phrase "include Child and Family Services Agency employees, agents, and contractors, and" in its place.

(B) Strike the phrase "teacher," and insert the phrase "teacher, athletic coach, Department of Parks and Recreation employee, public housing resident manager," in its place.

(3) Subsection (c) is amended by striking the phrase "Child Protective Services Division of the Department of Human Services" and inserting the phrase "Child and Family Services Agency" in its place.

(4) Subsection (d) is amended by striking the phrase "Child Protective Services Division of the Department of Human Services" and inserting the phrase "Child and Family Services Agency" in its place.

(5) A new subsection (e) is added to read as follows:

"(e) Notwithstanding D.C. Official Code § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of "sexual abuse" or "attempted sexual abuse" prohibited by the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001 *et seq.*); or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in section 2(3) of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; D.C. Official Code § 22-2701.01(3)); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.".

(b) Section 3(a)(1) (D.C. Official Code § 4-1321.03(a)(1)) is amended by striking the phrase "Child Protective Services Division of the Department of Human Services" and inserting the phrase "Child and Family Services Agency" in its place. **Amend § 4-1321.03**

(c) Section 7 (D.C. Official Code § 4-1321.07) is amended as follows: **Amend § 4-1321.07**

(1) Strike the phrase "$100" and insert the phrase "$300" in its place.

(2) Strike the number "30" and insert the number "90" in its place.

Sec. 204. The Criminal Background Checks for the Protection of Children Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 4-1501.01 *et seq.*), is amended as follows:

(a) Section 205(c)(5) (D.C. Official Code § 4-1501.05(c)(5)) is amended to read as follows: **Amend § 4-1501.05**

"(5) A signed affirmation stating whether or not the applicant, employee, or volunteer has been convicted of a crime, has pleaded nolo contendere, is on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity, for any sexual offenses or intrafamily offenses in the District of Columbia or their equivalent in any other state or territory, or for any of the following felony offenses or their equivalent in another state or territory:

"(A) Murder, attempted murder, manslaughter, or arson;

"(B) Assault, assault with a dangerous weapon, mayhem, malicious disfigurement, or threats to do bodily harm;

"(C) Burglary;

"(D) Robbery;

"(E) Kidnapping;

"(F) Illegal use or possession of a firearm;

"(G) Sexual offenses, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;

"(H) Child abuse or cruelty to children; or

"(I) Unlawful distribution of or possession with intent to distribute a controlled substance;".

(b) A new section 205a is added to read as follows:

"Sec. 205a. Assessment of information obtained from criminal background check.

"(a) The information obtained from the criminal background check shall not create a disqualification or presumption against employment or volunteer status of the applicant unless the Mayor determines that the applicant poses a present danger to children or youth. In making this determination, the Mayor shall consider the following factors:

"(1) The specific duties and responsibilities necessarily related to the employment sought;

"(2) The bearing, if any, the criminal offense for which the person was previously convicted will have on his or her fitness or ability to perform one or more of such duties or responsibilities;

"(3) The time which has elapsed since the occurrence of the criminal offense;

"(4) The age of the person at the time of the occurrence of the criminal offense;

"(5) The frequency and seriousness of the criminal offense;

"(6) Any information produced by the person, or produced on his or her behalf, regarding his or her rehabilitation and good conduct since the occurrence of the criminal offense; and

"(7) The public policy that it is beneficial generally for ex-offenders to obtain employment.

"(b) The Mayor and covered child or youth services providers shall not employ or permit to serve as an unsupervised volunteer an applicant who has been convicted of, has pleaded nolo contendere to, is on probation before judgment or placement of a case on the stet docket because of, or has been found not guilty by reason of insanity for any sexual offenses involving a minor.

"(c) If an application is denied because the applicant presents a present danger to children or youth, the Mayor shall inform the applicant in writing and the applicant may appeal the denial to the Commission on Human Rights within 30 days of the date of the written statement.".

Sec. 205. Section 706 of the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2507.06), is amended by adding a new paragraph (3) to read as follows: Amend § 7-2507.06

"(3) A person convicted of knowingly possessing restricted pistol bullets in violation of section 601(3) may be sentenced to imprisonment for a term not to exceed 10 years and shall be sentenced to imprisonment for a mandatory-minimum term of not less than 1 year and shall not be released from prison or granted probation or suspension of sentence prior to serving the mandatory-minimum sentence, and, in addition, may be fined an amount not to exceed $10,000.".

Sec. 206. Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-1001(5) is amended to read as follows: Amend § 16-1001

"(5) The term "intrafamily offense" means an act punishable as a criminal offense committed by an offender upon a person:

"(A) To whom the offender is related by blood, legal custody, marriage, domestic partnership, having a child in common, or with whom the offender shares or has shared a mutual residence;

"(B) With whom the offender maintains or maintained a romantic relationship not necessarily including a sexual relationship; provided, that a person seeking a protection order under this subparagraph shall reside in the District of Columbia or the underlying intrafamily offense shall have occurred in the District of Columbia;

"(C) Who was or is married to, a domestic partner of, divorced or separated from, or in a romantic relationship, not necessarily including a sexual relationship, with a person who was or is married to, a domestic partner of, divorced or separated from, or in a romantic relationship, not necessarily including a sexual relationship, with the offender; or

"(D) Who had been stalked or is being stalked by the offender.".

(b) Section 16-2317(d)(5) is amended by striking the phrase "Division shall:" and inserting the phrase "Division may consider the child's failure to appear at a scheduled hearing and shall:" in its place. Amend § 16-2317

(c) Section 16-2320 is amended by adding a new subsection (c-3) to read as follows: Amend § 16-2320

"(c-3) When determining what disposition shall be ordered under subsection (a) of this section, the Division may consider a child's failure to appear at a scheduled hearing.".

(d) A new section 16-2325.02 is added to read as follows: New § 16-2325.02

"§ 16-2325.02. Report on failure of respondents to appear in delinquency cases.

"The Chief Judge of the Superior Court of the District of Columbia shall submit to the Council a semiannual report detailing the number of respondents in delinquency cases who fail to appear before any court or judicial official as required and the percentage that represents of those adjudicated. For each failure to appear, the report shall include the age of the respondent, the underlying offense with which the respondent was charged, and whether the respondent had previously failed to appear.".

Sec. 207. Section 806(a) of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22-404(a)), is amended to read as follows: **Amend § 22-404**

"(a)(1) Whoever unlawfully assaults, or threatens another in a menacing manner, shall be fined not more than $1,000 or be imprisoned not more than 180 days, or both.

"(2) Whoever unlawfully assaults, or threatens another in a menacing manner, and intentionally, knowingly, or recklessly causes significant bodily injury to another shall be fined not more than $3,000 or be imprisoned not more than 3 years, or both. For the purposes of this paragraph, the term "significant bodily injury" means an injury that requires hospitalization or immediate medical attention.".

Sec. 208. Section 432 of the Revised Statutes relating to the District of Columbia (D.C. Official Code § 22-405), is amended to read as follows: **Amend § 22-405**

"Sec. 432. (a) For the purposes of this section, the term "law enforcement officer" means any officer or member of any police force operating and authorized to act in the District of Columbia, including any reserve officer or designated civilian employee of the Metropolitan Police Department, any licensed special police officer, any officer or member of any fire department operating in the District of Columbia, any officer or employee of any penal or correctional institution of the District of Columbia, any officer or employee of the government of the District of Columbia charged with the supervision of juveniles being confined pursuant to law in any facility of the District of Columbia regardless of whether such institution or facility is located within the District, any investigator or code inspector employed by the government of the District of Columbia, or any officer or employee of the Department of Youth Rehabilitation Services, Court Services and Offender Supervision Agency, the Social Services Division of the Superior Court, or Pretrial Services Agency charged with intake, assessment, or community supervision.

"(b) Whoever without justifiable and excusable cause, assaults, resists, opposes, impedes, intimidates, or interferes with a law enforcement officer on account of, or while that law enforcement officer is engaged in the performance of his or her official duties shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned not more than 180 days or fined not more than $1,000, or both.

"(c) A person who violates subsection (b) of this section and causes significant bodily injury to the law enforcement officer, or commits a violent act that creates a grave risk of causing significant bodily injury to the officer, shall be guilty of a felony and, upon conviction, shall be imprisoned not more than 10 years or fined not more than $10,000, or both.

"(d) It is neither justifiable nor excusable cause for a person to use force to resist an arrest when such an arrest is made by an individual he or she has reason to believe is a law enforcement officer, whether or not such arrest is lawful.".

Sec. 209. An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-2101 *et seq.*), is amended by adding a new section 802b to read as follows:

"Sec. 802b. PENALTY FOR SOLICITATION OF MURDER OR OTHER CRIME OF VIOLENCE.

"(a) Whoever is guilty of soliciting a murder, whether or not such murder occurs, shall be sentenced to a period of imprisonment not exceeding 20 years, a fine of $20,000, or both.

"(b) Whoever is guilty of soliciting a crime of violence as defined by D.C. Official Code § 23-1331(4), whether or not such crime occurs, shall be sentenced to a period of imprisonment not exceeding 10 years, a fine of $10,000, or both.".

Sec. 210. Section 9(a) of An act for the preservation of the public peace and the protection of property within the District of Columbia, approved July 29, 1892 (27 Stat. 324; D.C. Official Code § 22-1312(a)), is amended to read as follows:

Amend § 22-1312

"(a) It shall not be lawful for any person or persons to make any obscene or indecent exposure of his or her person, or to make any lewd, obscene, or indecent sexual proposal in the District of Columbia under penalty of not more than $300 fine, or imprisonment of not more than 90 days, or both, for each and every such offense.".

Sec. 211. An Act For the suppression of prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Official Code § 22-2701 *et seq.*), is amended as follows:

(a) Section 1 (D.C. Official Code § 22-2701) is amended to read as follows:

Amend § 22-2701

"Sec. 1. It is unlawful for any person to engage in prostitution or to solicit for prostitution. The penalties for violation of this section shall be a fine of $500 or not more than 90 days imprisonment, or both, for the first offense, a fine of $750 or not more than 135 days imprisonment, or both, for the second offense, and a fine of $1,000 or not more than 180 days imprisonment, or both, for the third and each subsequent offense.".

(b) Section 5(a) (D.C. Official Code § 22-2723(a)) is amended as follows:

Amend § 22-2723

(1) Paragraph (1) is amended as follows:

(A) The lead-in language is amended by striking the phrase "a violation of this act" and inserting the phrase "a violation of a prostitution-related offense" in its place.

(B) Subparagraph (A) is amended by striking the phrase "a violation of this act" and inserting the phrase "a violation of a prostitution-related offense" in its place.

(2) Paragraph (2) is amended by striking "violation of this act" and inserting the phrase "violation of a prostitution-related offense" in its place.

(c) New sections 6 and 7 are added to read as follows:

"Sec. 6. Impoundment.

"(a) Any vehicle used in furtherance of a violation of a prostitution-related offense shall be subject to impoundment pursuant to this section.

"(b) Whenever a police officer has probable cause to believe that a vehicle is being used in furtherance of a violation of a prostitution-related offense, and an arrest is made for that violation, the police officer, other member of the Metropolitan Police Department, or duly authorized agent thereof shall:

"(1) Arrange for the towing of the vehicle by the Department of Public Works, or other designee of the Mayor, to a facility controlled by the District of Columbia or its agents, as designated by the Mayor, or , if towing services are not immediately available, arrange for the immobilization of the vehicle until such time as towing services become available; and

"(2) Provide written notice to the owner of record of the vehicle and to the person who is found to be in control of the vehicle at the time of the seizure conveying the fact of seizure and impoundment of the vehicle, as well as the right to obtain immediate return of the vehicle pursuant to subsection (d) of this section, in lieu of requesting a hearing.

"(c) The notices to be given pursuant to this section shall be provided by hand delivery at the time of the seizure and impoundment of the vehicle to the person in control of the vehicle or to the owner of record of the vehicle. If the owner of record of the vehicle is not available to receive such notice at the time of seizure, then the notice shall be sent to each owner of record via registered mail, return receipt requested, to the address listed in the records of the Department of Motor Vehicles within 3 days of the time of the impoundment, excluding Saturdays, Sundays, and legal holidays.

"(d) An owner, or a person duly authorized by an owner, shall, upon proof of same, be permitted to repossess or secure the release of the immobilized or impounded vehicle at any time (subject to administrative availability) by paying to the District government, as directed by the Department of Public Works, an administrative civil penalty of $150, a booting fee, if applicable, and all applicable towing and storage costs for impounded vehicles as provided by section 9(a)(6) of the Removal and Disposition of Abandoned and Other Unlawfully Parked Vehicles Reform Act of 2003, effective October 28, 2003 (D.C. Law 15-35; D.C. Official Code § 50-2421.09(a)(6)) ("Disposition Act"). Payment of such fees shall not be admissible as evidence of guilt in any criminal proceeding.

"(e) An owner, or person duly authorized by an owner, shall be entitled to refund of the administrative civil penalty, booting fee, and 2 days' towing and storage costs by showing that the prosecutor dropped the underlying criminal charges (except for instances of *nolle prosequi* or because the defendant completed a diversion program), that the Superior Court of the District of Columbia dismissed the case after consideration of the merits, or that the case resulted in a finding of not guilty on all prostitution-related charges, or by providing a police report demonstrating that the vehicle was stolen at the time that it was subject to seizure and impoundment. If the vehicle had been stolen at the time of seizure and impoundment, a refund of all towing and storage costs shall be made.

"(f) An owner, or person duly authorized by an owner, shall be entitled to a due process hearing regarding the seizure of the vehicle.

"(g) Vehicles seized and impounded under this section shall not be subject to replevin, but shall be deemed to be in the custody of the Mayor.

"(h) Vehicles that remain unclaimed for 30 days may be disposed of pursuant to sections 7(c), (d), (e), and (f), 8, 9, and 10 of the Disposition Act; provided, that if the owner wants to claim the vehicle before it is auctioned, the owner must pay the administrative civil penalty imposed by subsection (d) of this section in addition to the amounts required in section 9 of the Disposition Act.

"(i) The Attorney General for the District of Columbia, or his or her assistants, shall represent the District of Columbia in all proceedings under this section.

"(j) The Mayor shall issue rules setting forth the process by which a refund shall be obtained timely pursuant to subsection (e) of this section. Until such rules are published in the District of Columbia Register, this section shall not be enforceable."

"Sec. 7. Anti-Prostitution Vehicle Impoundment Proceeds Fund.

"(a) There is established a fund designated as the Anti-Prostitution Vehicle Impoundment Proceeds Fund ("Fund"), which shall be used for the purpose set forth in subsection (b) of this section. All funds collected from the assessment of civil penalties, booting, towing, impoundment, and storage fees pursuant to section 5, and any and all interest earned on those funds, shall be deposited into the Fund, and shall be continually available for the uses and purposes set forth in subsection (b) of this section, subject to authorization by Congress, except that any unused funds remaining in the Fund on September 30th of each fiscal year shall revert to the General Fund of the District of Columbia.

"(b) The Fund shall be used solely to fund expenses directly related to the booting, towing, and impoundment of vehicles used in furtherance of prostitution-related activities, in violation of a prostitution-related offense.

"(c) The Mayor shall submit to the Council, as part of the annual budget, a requested appropriation for expenditures from the Fund.".

Sec. 212. Section 2 of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; D.C. Official Code § 22-2701.01), is amended to read as follows: **Amend § 22-2701.01**

"Sec. 2. Definitions.

For the purposes of this act and An Act For the suppression of prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Official Code § 22-2701 *et seq.*); Section 812 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat 1322; D.C. Official Code § 22-2704); An Act In relation to pandering, to define and prohibit the same and to provide for the punishment thereof, approved June 25, 1910 (36 Stat 833; D.C. Official Code § 22-2705 *et seq.*); An Act To enjoin and abate houses of

lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose, and to assess a tax against the person maintaining said nuisance and against the building and owner thereof, approved February 7, 1914 (38 Stat. 280; D.C. Official Code § 22-2713 *et seq.*); and section 1 of An Act To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat. 192; D.C. Official Code § 22-2722), the term:

"(1) "Arranging for prostitution" means any act to procure or attempt to procure or otherwise arrange for the purpose of prostitution, regardless of whether such procurement or arrangement occurred or a fee was paid.

"(2) "Domestic partner" shall have the same meaning as provided in section 2(3) of the Health Care Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)).

"(3) "Prostitution" means a sexual act or contact with another person in return for giving or receiving a fee.

"(4) "Prostitution-related offenses" means those crimes and offenses defined in this act and in the acts cited in the lead-in language of this section.

"(5) "Sexual act" shall have the same meaning as provided in section 101(8) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(8)).

"(6) "Sexual contact" shall have the same meaning as provided in section 101(9) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(9)).

"(7) "Solicit for prostitution" means to invite, entice, offer, persuade, or agree to engage in prostitution or address for the purpose of inviting, enticing, offering, persuading, or agreeing to engage in prostitution.".

Amend § 22-2704

Sec. 213. Section 813 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22-2704), is amended to read as follows:

"Sec. 813. Abducting or enticing child from his or her home for purposes of prostitution; harboring such child.

"(a) It is unlawful for any person, for purposes of prostitution, to:

"(1) Persuade, entice, or forcibly abduct a child under 18 years of age from his or her home or usual abode, or from the custody and control of the child's parents or guardian; or

"(2) Secrete or harbor any child so persuaded, enticed, or abducted from his or her home or usual abode, or from the custody and control of the child's parents or guardian.

"(b) A person who violates subsection (a) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years, or by a fine of not more than $20,000, or both.".

Sec. 214. An Act In relation to pandering, to define and prohibit the same and to provide for the punishment thereof, approved June 25, 1910 (36 Stat. 833; D.C. Official Code § 22- 2705 *et seq.*), is amended as follows:

(a) Section 1 (D.C. Official Code § 22-2705) is amended to read as follows: **Amend § 22-2705**

"Sec. 1. (a) It is unlawful for any person, within the District of Columbia to:

"(1) Place or cause, induce, entice, procure, or compel the placing of any individual in the charge or custody of any other person, or in a house of prostitution, with intent that such individual shall engage in prostitution;

"(2) Cause, compel, induce, entice, or procure or attempt to cause, compel, induce, entice, or procure any individual:

"(A) To reside with any other person for the purpose of prostitution;

"(B) To reside or continue to reside in a house of prostitution; or

"(C) To engage in prostitution; or

"(3) Take or detain an individual against the individual's will, with intent to compel such individual by force, threats, menace, or duress to marry the abductor or to marry any other person.

"(b) It is unlawful for any parent, guardian, or other person having legal custody of the person of an individual, to consent to the individual's being taken, detained, or used by any person, for the purpose of prostitution or a sexual act or sexual contact.

"(c)(1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) or (b) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 5 years, or by a fine of not more than $5,000, or both.

"(2) A person who violates subsection (a) or (b) of this section when the individual so placed, caused, compelled, induced, enticed, procured, taken, detained, or used or attempted to be so placed, caused, compelled, induced, enticed, procured, taken, detained, or used is under the age of 18 years shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years or by a fine of not more than $20,000, or both.".

(b) Section 2 (D.C. Official Code § 22-2706) is amended to read as follows: **Amend § 22-2706**

"Sec. 2. (a) It is unlawful for any person, within the District of Columbia, by threats or duress, to detain any individual against such individual's will, for the purpose of prostitution or a sexual act or sexual contact, or to compel any individual against such individual's will, to reside with him or her or with any other person for the purposes of prostitution or a sexual act or sexual contact.

"(b)(1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 15 years or by a fine of not more than $15,000, or both.

"(2) A person who violates subsection (a) of the section when the individual so detained or compelled is under the age of 18 years shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years or by a fine of not more than $20,000, or both.".

(c) Section 3 (D.C. Official Code § 22-2707) is amended to read as follows:

Amend § 22-2707

"Sec. 3. (a) It is unlawful for any person, within the District of Columbia, to receive any money or other valuable thing for or on account of arranging for or causing any individual to engage in prostitution or a sexual act or contact.

"(b)(1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 5 years or by a fine of not more than $5,000, or both.

"(2) A person who violates subsection (a) of this section when the individual so arranged for or caused to engage in prostitution or a sexual act or contact is under the age of 18 years shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years or by a fine of not more than $20,000, or both.".

(d) Section 4 (D.C. Official Code § 22-2708) is amended by striking the word "spouse" and inserting the phrase "spouse or domestic partner" in its place.

Amend § 22-2708

Sec. 215. Section 1 of An Act To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat. 192; D.C. Official Code § 22-2722), is amended by striking the phrase "$1,000 or imprisoned not more than 180 days, or both." and inserting the phrase "$5,000 or imprisoned not more than 5 years, or both." in its place.

Amend § 22-2722

Sec. 216. The Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 22-3001) is amended as follows:

Amend § 22-3001

(1) A new paragraph (5A) is added to read as follows:

"(5A) "Minor" means a person who has not yet attained the age of 18 years.".

(2) Paragraph (10) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase "marriage, or adoption" and inserting the phrase "marriage, domestic partnership, or adoption" in its place.

(B) Subparagraph (C) is amended by striking the phrase "spouse or paramour" and inserting the phrase "spouse, domestic partner, or paramour" in its place.

(C) Subparagraph (D) is amended to read as follows:

"(D) Any employee or volunteer of a school, church, synagogue, mosque, or other religious institution, or an educational, social, recreational, athletic, musical, charitable, or youth facility, organization, or program, including a teacher, coach, counselor, clergy, youth leader, chorus director, bus driver, administrator, or support staff, or any other person in a position of trust with or authority over a child or a minor.".

(b) A new section 208a is added to read as follows:

"Sec. 208a. First degree sexual abuse of a minor.

"Whoever, being 18 years of age or older, is in a significant relationship with a minor, and engages in a sexual act with that minor or causes that minor to engage in a sexual act shall be imprisoned for not more than 15 years and may be fined in an amount not to exceed $150,000, or
both.".

(c) A new section 208b is added to read as follows:

"Sec. 208b. Second degree sexual abuse of a minor.

"Whoever, being 18 years of age or older, is in a significant relationship with a minor and engages in a sexual contact with that minor or causes that minor to engage in a sexual contact shall be imprisoned for not more than 7 ½ years and may be fined in an amount not to exceed $75,000, or both.".

(d) Section 209 (D.C. Official Code § 22-3010) is amended to read as follows: **Amend § 22-3010**

"Sec. 209. Enticing a child or minor.

"(a) Whoever, being at least 4 years older than a child or being in a significant relationship with a minor, (1) takes that child or minor to any place for the purpose of committing any offense set forth in sections and 207-208b, or (2) seduces, entices, allures, convinces, or persuades or attempts to seduce, entice, allure, convince, or persuade a child or minor to engage in a sexual act or contact shall be imprisoned for not more than 5 years or may be fined in an amount not to exceed $50,000, or both.

"(b) Whoever, being at least 4 years older than the purported age of a person who represents himself or herself to be a child, attempts (1) to seduce, entice, allure, convince, or persuade any person who represents himself or herself to be a child to engage in a sexual act or contact, or (2) to entice, allure, convince, or persuade any person who represents himself or herself to be a child to go to any place for the purpose of engaging in a sexual act or contact shall be imprisoned for not more than 5 years or may be fined in an amount not to exceed $50,000, or both.

"(c) No person shall be consecutively sentenced for enticing a child or minor to engage in a sexual act or sexual contact under subsection (a)(2) of this section and engaging in that sexual act or sexual contact with that child or minor; provided, that the enticement occurred closely associated in time with the sexual act or sexual contact .".

(e) A new section 209a is added to read as follows:

"Sec. 209a. Misdemeanor sexual abuse of a child or minor.

"(a) Whoever, being 18 years of age or older and more than 4 years older than a child, or being 18 years of age or older and being in a significant relationship with a minor, engages in sexually suggestive conduct with that child or minor shall be imprisoned for not more than180 days, or fined in an amount not to exceed $1,000, or both.

"(b) For the purposes of this section, the term "sexually suggestive conduct" means engaging in any of the following acts in a way which is intended to cause or reasonably causes the sexual arousal or sexual gratification of any person:

"(1) Touching a child or minor inside his or her clothing;

"(2) Touching a child or minor inside or outside his or her clothing close to the genitalia, anus, breast, or buttocks;

"(3) Placing one's tongue in the mouth of the child or minor; or

"(4) Touching one's own genitalia or that of a third person.".

(f) Section 210 (D.C. Official Code § 22-3011) is amended as follows: **Amend § 22-3011**

(1) The section heading is amended by striking the word "abuse" and inserting the phrase "abuse and sexual abuse of a minor" in its place.

(2) Strike the number "209" both times it appears and insert the phrase "209a" in its place.

(g) Section 212 (D.C. Official Code § 22-3013) is amended to read as follows: **Amend § 22-3013**

"Sec. 212. First degree sexual abuse of a ward.

"Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual act with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner to engage in or submit to a sexual act shall be imprisoned for not more than 10 years or fined in an amount not to exceed $100,000, or both.".

(h) Section 213 (D.C. Official Code § 22-3014) is amended to read as follows: **Amend § 22-3014**

"Sec. 213. Second degree sexual abuse of a ward.

"Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual contact with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner, to engage in or submit to a sexual contact shall be imprisoned for not more than 5 years or fined in an amount not to exceed $50,000, or both.".

(i) Section 214(a) (D.C. Official Code § 22-3015(a)) is amended as follows: **Amend § 22-3015**

(1) Paragraph (1) is amended by striking the word "or" at the end.

(2) Paragraph (2) is amended by striking the period and inserting a semicolon in its place.

(3) New paragraph (3) and (4) are added to read as follows:

"(3) The actor represents falsely that he or she is licensed as a particular type of professional; or

"(4) The sexual act occurs during the course of a consultation, examination, treatment, therapy, or other provision of professional services.".

(j) Section 215(a) (D.C. Official Code § 22-3016(a)) is amended as follows: **Amend § 22-3016**

(1) Paragraph (1) is amended by striking the word "or" at the end.

(2) Paragraph (2) is amended by striking the period and inserting a semicolon in its place.

(3) New paragraphs (3) and (4) are added to read as follows:

"(3) The actor represents falsely that he or she is licensed as a particular type of professional; or

"(4) The sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other provision of professional services.".

(k) Section 218 (D.C. Official Code § 22-3019) is amended to read as follows: **Amend § 22-3019**

"Sec. 218. No immunity from prosecution for spouses or domestic partners.

"No actor is immune from prosecution under any section of Title II because of marriage, domestic partnership, or cohabitation with the victim; provided, that marriage or the domestic partnership of the parties may be asserted as an affirmative defense in prosecution under Title II where it is expressly so provided.".

(l) Section 304 (D.C. Official Code § 22-3024) is amended to read as follows: **Amend § 22-3024**

"Sec. 304. Privilege inapplicable for spouses or domestic partners.

"Laws attaching a privilege against disclosure of communications between spouses or domestic partners are inapplicable in prosecutions under Title II where the defendant is or was married to the victim, or is or was a domestic partner of the victim, or where the victim is a child.".

Sec. 217. The District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3201 *et seq.*), is amended by adding a new section 133 to read as follows:

"Sec. 133. Altering or removing motor vehicle identification numbers.

"(a) It is unlawful for a person to knowingly remove, obliterate, tamper with, or alter any identification number on a motor vehicle or a motor vehicle part.

"(b)(1) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than 180 days, or fined not more than $1,000, or both.

"(2) Any person who violates subsection (a) of this section shall be guilty of a felony if the value of the motor vehicle or motor vehicle part is $250 or more and, upon conviction, shall be imprisoned for not more than 5 years, or fined not more than $5000, or both.

"(c) For the purposes of this section, the term:

"(1) "Identification number" means a number or symbol that is originally inscribed or affixed by the manufacturer to a motor vehicle or motor vehicle part for purposes of identification.

"(2) "Motor vehicle" means any automobile, self-propelled mobile home, motorcycle, motor scooter, truck, truck tractor, truck semi trailer, truck trailer, bus, or other vehicle propelled by an internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired.".

Sec. 218. Sec. 127c of the District of Columbia Theft and White Collar Crimes Act of 1982, effective March 27, 2004 (D.C. Law 15-106; D.C. Official Code § 22-3227.03), is amended as follows: **Amend § 22-3227.03**

(a) Subsection (a) is amended by adding the phrase ", or attempted to be obtained," after the phrase "if the property obtained".

(b) Subsection (b) is amended by adding the phrase ", or attempted to be obtained," after the phrase "of the property obtained".

Sec. 219. Section 824 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1324; D.C. Official Code § 22-3302), is amended by adding a new sentence at the end to read as follows: **Amend § 22-3302**

"The presence of a person in any private dwelling, building, or other property that is otherwise vacant and boarded-up or otherwise secured in a manner that conveys that it is vacant and not to be entered, or displays a no trespassing sign, shall be prima facie evidence that any person found in such property has entered against the will of the person in legal possession of the property.".

Sec. 220. Section 201 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3601), is amended as follows: **Amend § 22-3601**

(a) Subsection (b) is amended to read as follows:

"(b) The provisions of subsection (a) of this section shall apply to the following offenses:

Abduction, arson, aggravated assault, assault with a dangerous weapon, assault with intent to kill, commit first degree sexual abuse, or commit second degree sexual abuse, assault with intent to commit any other offense, burglary, carjacking, armed carjacking, extortion or

blackmail accompanied by threats of violence, kidnapping, malicious disfigurement, manslaughter, mayhem, murder, robbery, sexual abuse in the first, second, and third degrees, theft, fraud in the first degree, and fraud in the second degree, or an attempt or conspiracy to commit any of the foregoing offenses.".

(b) Subsection (c) is amended to read as follows:

"(c) It is an affirmative defense that the accused knew or reasonably believed the victim was not 60 years old or older at the time of the offense, or could not have known or determined the age of the victim because of the manner in which the offense was committed. This defense shall be established by a preponderance of the evidence.".

Sec. 221. Section 2(8)(C) of the Sex Offender Registration Act of 1999, effective July 11, 2000 (D.C. Law 13-137; D.C. Official Code § 22-4001(8)(C)), is amended by striking the phrase "(prostitution; pandering);" and inserting the phrase "section 2 of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; D.C. Official Code § 22-2701.01); section 813 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22-2704); An Act In relation to pandering, to define and prohibit the same and to provide for the punishment thereof, approved June 25, 1910 (36 Stat. 833; D.C. Official Code § 22-2705 *et seq.*); An Act To enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof, approved February 7, 1914 (38 Stat. 280; D.C. Official Code § 22-2713 *et seq.*); and section 1 of An Act To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat. 192; D.C. Official Code § 22-2722) (prostitution; pandering);" in its place.

Amend § 22-4001

Sec. 222. Section 2(5) of the HIV Testing of Certain Criminal Offenders Act of 1995, effective November 11, 1995 (D.C. Law 11-74; D.C. Official Code § 22-3901(5)), is amended to read as follows:

Amend § 22-3901

"(5) "Victim" means a person injured by the commission of an offense, and includes the parent or legal guardian of the victim, if the victim is a minor, or the spouse, domestic partner, or child of a victim, if the victim is deceased or incapacitated.".

Sec. 223. An Act To control the possession, sale, transfer and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-4501 *et seq.*), is amended as follows:

(a) The definition of "Crime of violence" in section 1 (D.C. Official Code § 22-4501) is amended to read as follows: Amend § 22-4501

""Crime of violence" as used in this Act, shall have the same meaning as provided in D.C. Official Code § 23-1331(4).".

(b) Section 2a(a) (D.C. Official Code § 22-4502.01(a)) is amended to read as follows: Amend § 22-4502.01

"(a) All areas within 1000 feet of an appropriately identified public or private day care center, elementary school, vocational school, secondary school, college, junior college, or university, or any public swimming pool, playground, video arcade, youth center, or public library, or in and around public housing as defined in section 3(1) of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 654; 42 U.S.C. § 1437a(b)), the development or administration of which is assisted by the United States Department of Housing and Urban Development, or in or around housing that is owned, operated, or financially assisted by the District of Columbia Housing Authority, or an event sponsored by any of the above entities shall be declared a gun free zone. For the purposes of this subsection, the term "appropriately identified" means that there is a sign that identifies the building or area as a gun free zone.".

(c) Section 3 (D.C. Official Code § 22-4503) is amended as follows: Amend § 22-4503

(1) Strike the word "pistol" wherever it appears and insert the word "firearm" in its place.

(2) Subsection (b) is amended by striking the second sentence and inserting in its place the following: "Whoever violates this section shall be sentenced to imprisonment for not more than 10 years and shall be sentenced to imprisonment for a mandatory-minimum term of not less than 1 year and shall not be released from prison or granted probation or suspension of sentence prior to serving the mandatory-minimum sentence.".

Sec. 224. Title 23 of the District of Columbia Official Code is amended as follows:

(a) Section 23-104 is amended as follows: Amend § 23-104

(1) New subsections (d-1) and (d-2) are added to read as follows:

"(d-1) In a criminal or delinquency case, the United States or the District of Columbia may appeal an order of a trial court granting a new trial after verdict or judgment, as to any one or more counts, or any part thereof, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

"(d-2) In a criminal or delinquency case, the United States or the District of Columbia may appeal a decision or order entered by the trial court granting the release of a person charged with, or convicted or adjudicated delinquent of an offense, the denial of a motion for revocation of release, or modification of the conditions of release.".

(2) Subsection (e) is amended by striking the phrase "subsection (b) or (d)" and inserting the phrase "subsection (b), (d), (d-1), or (d-2) " in its place.

(3) Subsection (f) is amended to read as follows:

"(f) Pending the prosecution and determination of an appeal taken pursuant to this section, the defendant shall be detained or released in accordance with Chapter 13 of this title and a juvenile respondent shall be detained or released in accordance with Chapter 23 of Title 16.".

(b) Section 23-113(a) is amended as follows: **Amend § 23-113**

(1) Paragraph (2) is amended by adding the phrase "and any offense that is properly joinable with any of the following crimes" after the phrase "A prosecution for the following crimes".

(2) Paragraph (3) is amended by adding the phrase "and any offense that is properly joinable with any of the following crimes" after the phrase "A prosecution for the following crimes".

(c) Section 23-1331(4) is amended to read as follows: **Amend § 23-1331**

"(4) The term "crime of violence" means aggravated assault; act of terrorism; arson; assault on a police officer (felony); assault with a dangerous weapon; assault with intent to kill, commit first degree sexual abuse, commit second degree sexual abuse, or commit child sexual abuse; assault with intent to commit any other offense; burglary; carjacking; armed carjacking; child sexual abuse; cruelty to children in the first degree; extortion or blackmail accompanied by threats of violence; gang recruitment, participation, or retention by the use or threatened use of force, coercion, or intimidation; kidnapping; malicious disfigurement; manslaughter; manufacture or possession of a weapon of mass destruction; mayhem; murder; robbery; sexual abuse in the first, second, or third degrees; use, dissemination, or detonation of a weapon of mass destruction; or an attempt or conspiracy to commit any of the foregoing offenses.".

Sec. 225. Section 407a(a) of the District of Columbia Uniform Controlled Substances Act of 1981, effective March 21, 1995 (D.C. Law 10-229; D.C. Official Code § 48-904.07a(a)), is amended to read as follows: **Amend § 48-904.07a**

"(a) All areas within 1000 feet of an appropriately identified public or private day care center, elementary school, vocational school, secondary school, junior college, college, or university, or any public swimming pool, playground, video arcade, youth center, or public library, or in and around public housing, as defined in section 3(1) of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 654; 42 U.S.C. § 1437a(b)), the development or administration of which is assisted by Department of Housing and Urban Development, or in or around housing that is owned, operated, or financially assisted by the District of Columbia Housing Authority, or an event sponsored by any of the above entities shall be declared a drug free zone. For the purposes of this subsection, the term "appropriately identified" means that there is a sign that identifies the building or area as a drug free zone.".

Sec. 226. Section 3(a) of the Anti-Loitering/Drug Free Zone Act of 1996, effective June 3, 1997 (D.C. Law 11-270; D.C. Official Code § 48-1002(a)), is amended by striking the phrase "120 consecutive hours" and inserting the phrase "240 consecutive hours" in its place. **Amend § 48-1002**

Sec. 227. The Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et seq.),* is amended as follows:

(a) Section 2(3)(L) (D.C. Official Code § 48-1101(3)(L)) is amended as follows: **Amend § 48-1101**

(1) Sub-subparagraph (xiii) is amended by striking the word "or" at the end.

(2) Sub-subparagraph (xiv) is amended by striking the period at the end and inserting a semicolon in its place.

(3) New sub-subparagraph (xv) is added to read as follows:

"(xv) Cigarette rolling paper or cigar leaf wrappers sold at a commercial retail or wholesale establishment, which does not derive at least 25% of its total annual revenue from the sale of tobacco products and which does not sell loose tobacco intended to be rolled into cigarettes and cigars.".

(b) Section 3 (D.C. Official Code § 48-1102) is amended as follows: **Amend § 48-1102**

(1) Subsection (a)(8) is amended to read as follows:

"(8) The size or packaging of the object, or the manner in which it is displayed;".

(2) Subsection (b) is amended to read as follows:

"(b) Where the alleged violation of the act occurred at a commercial retail or wholesale establishment, the court or other authority may infer, based upon consideration of the factors in subsection (a) of this section, that the following items are drug paraphernalia:

"(1) Glassy plastic bags or zip-lock bags that measure 1 inch by 1 inch or less; or

"(2) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent screens, hashish heads, or punctuated metal bowls.".

(c) Section 4 (D.C. Official Code § 48-1103) is amended by adding a new subsection (e) to read as follows: **Amend § 48-1103**

"(e)(1) Except as provided in paragraphs (2) and (3) of this subsection, it is unlawful to sell the following products in the District of Columbia:

"(A) Cocaine free base kits;

"(B) Glass or ceramic tubes less than 6 inches in length and 1 inch in diameter sold or possessed with or without any screen-like device;

"(C) Cigarette rolling papers; and

"(D) Cigar leaf wrappers.

"(2) A commercial retail or wholesale establishment may sell cigarette rolling papers or cigar leaf wrappers if the establishment:

"(A) Derives at least 25% of its total annual revenue from the sale of tobacco products; and

"(B) Sells loose tobacco intended to be rolled into cigarettes or cigars.

"(3) A wholesaler may sell cigarette rolling papers or cigar leaf wrappers to retail establishments described in paragraph (2) of this subsection.

"(4) A person who violates this subsection shall be imprisoned for not more than 180 days or fined not more than $1,000, or both, unless the violation occurs after the person has been convicted in the District of Columbia of a violation of this act, in which case the person shall be imprisoned for not more than 2 years, or fined not more than $5,000, or both.".

Sec. 228. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 *passim*), is amended as follows:

(a) Section 10(d) (D.C. Official Code § 50-2201.05(d)) is amended by striking the phrase "who is convicted in the District" and inserting the phrase "who is convicted or adjudicated a juvenile delinquent as a result of the commission in the District" in its place. **Amend § 50-2201.05**

(b) Section 13a (D.C. Official Code § 50-1403.02) is amended as follows: **Amend § 50-1403.02**

(1) The section heading is amended to read as follows:

"Sec. 13a. Revocation and disqualification of motor vehicle operator's permit.".

(2) New subsections (a-1), (a-2), (a-3), and (a-4) are added to read as follows:

"(a-1) The Mayor may delay issuance of an operator's permit by disqualifying anyone not already in possession of a valid operator's permit when such individual is convicted of or adjudicated delinquent as a result of:

"(1) The commission of a stolen vehicle offense;

"(2) Operating a motor vehicle without a permit (section 7(d) – residents; section 8(i) – non-residents);

"(3) Operating a motor vehicle after revocation or suspension of an operator's permit (section 13); or

"(4) Any felony in the commission of which a motor vehicle is involved.

"(a-2) In all cases where a person is convicted or adjudicated delinquent of any of the offenses set forth in subsection (a-1) of this section, the disqualification period shall commence on the later of:

"(1) The date of conviction or adjudication if the person is imprisoned or legal custody of the person has been transferred to a public agency for care of delinquent children as a result of the conviction or adjudication;

"(2) The person's 16th birthday if the conviction or adjudication occurs before the person is 16 years of age; or

"(3) The date that a person over 16 years of age becomes eligible to have driving privileges restored if such privileges have previously been revoked or suspended.

"(a-3) The disqualification period referenced in subsection(a-2) of this section shall, for any offense set forth in subsection (a-1) of this section, be:

"(1) Six months for a first time violation of any offense set forth in subsection (a-1) of this section;

"(2) One year for a second violation; or

"(3) Two years for each subsequent violation.

"(a-4) A copy of the conviction or adjudication shall be forwarded by the court to the Mayor, along with the offender's social security number or operator's permit number, together with a copy of the operator's permit.

(3) Subsection (b) is amended to read as follows:

"(b) For the purposes of this section, the term:

"(1) "Drug offense" means:

"(A) The possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Comprehensive Drug Abuse Prevention and Control Act of 1970, approved October 27, 1970 (84 Stat. 1236; 21 U.S.C. § 801 *et seq.*), the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 *et seq.*), or the law of any state, territory, or possession of the United States; or

"(B) The operation of a motor vehicle under the influence of such a substance.

"(2) "Stolen vehicle offense" means:

"(A) A theft of a motor vehicle in violation of section 111 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3211) ("Act");

"(B) The unauthorized use of a motor vehicle in violation of section 115 of the Act; or

"(C) Trafficking in or receiving a stolen motor vehicle in violation of sections 131 or 132 of the Act.".

TITLE III

Sec. 301. Fiscal impact statement.

The Council adopts the June 2, 2006 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
October 17, 2006

OCT 2 7 2006

ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-483

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 18, 2006

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

To amend, on an emergency basis, An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia to grant the Board of Library Trustees the authority to procure goods and services independent of the Office of Contracting and Procurement and the requirements of the District of Columbia Procurement Practices Act of 1985 ("PPA"), except for provisions of the PPA pertaining to contract protests, appeals, and claims, and to make the independent procurement authority of the Board of Library Trustees contingent upon it issuing procurement regulations that have been approved by the Council; and to amend the PPA to exempt the Board of Library Trustees from the provisions of the act except for those provisions pertaining to contract protests, appeals, and claims.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Library Procurement Emergency Amendment Act of 2006".

Sec. 2. Section 5 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-105), is amended as follows: **Note, § 39-105**

(a) Subsection (a) is amended as follows:

(1) Paragraph (1) is amended by striking all text after the semicolon.

(2) Paragraph (3) is amended to read as follows:

"(3) Have the authority to procure all goods and services necessary to operate the library system, independent of the Office of Contracting and Procurement and the requirements of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*)("Act"), except as specified in section 320 of the Act, and in accordance with subsection (c) of this section.".

(b) A new subsection (c) is added to read as follows:

"(c)(1) The Board shall not exercise the procurement authority granted to it under subsection (a)(3) of this section until the Council has approved rules governing the procurement of goods and services submitted by the Board pursuant to this subsection.

"(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 45-day period, the proposed rules shall be deemed disapproved.".

Sec. 3. Section 320 of the District of Columbia Procurement Practices Act of 1985, effective April 12, 1997 (D.C. Law 11-259; D.C. Official Code § 2-303.20), is amended by **Note, § 2-303.20**

adding a new subsection (s) to read as follows:

"(s) Nothing in this act shall affect the authority of the Board of Library Trustees, except that Title IX shall apply to contract protests, appeals, and claims arising from procurements of the Board of Library Trustees.".

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report on the Library Procurement Amendment Act of 2006, passed on 2nd reading on October 3, 2006 (Enrolled version of Bill 16-562), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia

APPROVED
October 18, 2006

OCT 2 7 2006

ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-484

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 18, 2006

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

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To amend, on an emergency basis, due to Congressional review, the District of Columbia Public Assistance Act of 1982 to provide for confidentiality of information for individuals applying for or receiving public benefits through the Department of Human Services, Income Maintenance Administration, and to authorize the Mayor to issue rules pertaining to the release and disclosure of such records.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Assistance Confidentiality of Information Second Congressional Review Emergency Amendment Act of 2006".

Sec. 2. Section 904 of the District of Columbia Public Assistance Act of 1982, effective April 20, 1999 (D.C. Law 12-241; D.C. Official Code § 4-209.04), is amended to read as follows: **Note, § 4-209.04**

"Sec. 904. Confidentiality of information.

"(a) For the purposes of this section, the term:

"(1) "Administering" means running public benefits programs in a manner that complies with District of Columbia or federal laws, rules, or regulations.

"(2) "Applicant" means an individual who has submitted an application for services under one or more IMA programs.

"(3) "Disclosure" means the release, transfer, provision of, provision of access to, or distribution of information in any manner by an entity holding the information to a person outside of the entity.

"(4) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (Pub. L. 104-191; 110 Stat. 1936), and the regulations issued thereunder, 45 C.F.R. Parts 160 and 164, enacted for the primary purpose of safeguarding the privacy of an individual's protected health information by restricting the use or disclosure of the information to certain limited circumstances, such as treatment by medical providers, payment of medical bills, or health care operations.

"(5) "IMA" means the Income Maintenance Administration within the Department of Human Services.

"(6) "IMA programs" means public benefit programs, including TANF, POWER, Medical Assistance (including Medicaid), Food Stamps, Interim Disability Assistance, Burial Assistance, Refugee Resettlement Assistance, General Assistance for Children, and programs under titles I, V-A, IV-D, XVI, or XIX of Title 21 of the Social Security Act, approved August 14, 1935 (49 Stat. 757; 42 U.S.C. § 301 *et seq.*).

"(7) "Individual's representative" means a person authorized in writing to review or copy an applicant's or recipient's record, or submit or receive information on behalf of the applicant or recipient by:

"(A) The applicant or recipient;

"(B) A court of competent jurisdiction; or

"(C) A person otherwise authorized by law to make decisions on behalf of the applicant or recipient, including decisions related to health care, such as the custodial parent, legal guardian, or personal representative, as set forth at 45 C.F.R. § 164.502(g).

"(8) "Personal notes" means:

"(A) Mental health information regarding an applicant or recipient disclosed to a mental health professional in confidence by other persons on condition that such information not be disclosed to the applicant or recipient, or to other persons; and

"(B) A mental health professional's speculations about the applicant or recipient.

"(9) "Personal representative" means a person who:

"(A) Under applicable law, has the authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care;

"(B) Is an executor, administrator, or other person who, under applicable law, has authority to act on behalf of a deceased individual or the individual's estate; or

"(C) Is a parent, guardian, or other person acting in loco parentis who may have the authority to act on behalf of an unemancipated minor, as more fully set forth at 45 C.F.R. § 164.502(g).

"(10) "Protected health information" means any individually identifiable information, whether oral or recorded, in any form or medium, that is created or received and relates to the past, present, or future physical or mental health condition of an applicant or recipient, or to the payment for health care for an applicant or recipient.

"(11) "Recipient" means an applicant who meets the eligibility requirements and has been determined eligible to receive services through an IMA program.

"(12) "Record" or "applicant's or recipient's record" means any hard copy or electronic item, collection, or grouping of information, which includes protected health information, relating to an applicant or recipient that is maintained, collected, used, or disseminated for the purpose of administering an IMA program. The term "record" or

"applicant's or recipient's record" includes information that the government of the District of Columbia collects and stores by the operation or administration of computerized public benefits eligibility screening tools.

"(b) IMA shall keep records to document information about applicants and recipients relating to IMA programs. The information shall be privileged and confidential and shall only be used or disclosed in accordance with this section.

"(1) The applicant or recipient has a right to privacy and shall be provided with a written notice about IMA's privacy practices and the conditions governing inspection of records. A copy of the notice shall be maintained in the applicant's or recipient's record.

"(2) IMA shall secure the written authorization of the applicant, recipient, or individual's representative pursuant to the requirements of 45 C.F.R. § 164.508 before requesting or disclosing information about the applicant or recipient to or from other agencies or individuals. A copy of the authorization shall be maintained in the applicant's or recipient's record.

"(3) An applicant or recipient shall submit a verbal or written request and an individual's representative shall submit a written request to access information in an applicant's or recipient's record, including protected health information. Except for pyschotherapy and personal notes, and information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding, the IMA shall make all information in the applicant's or recipient's record available to the applicant, recipient, or the individual's representative.

"(A) IMA shall permit inspection or provide a copy of the information no later than 30 days after receiving the written request if the information is available on-site unless the applicant or recipient is under investigation pursuant to any provisions of subsection (c) of this section. If the written request is for information that is not maintained by or accessible to IMA on-site and IMA has knowledge of the information and its location, IMA must permit inspection or provide a copy of the information no later than 60 days after receiving the written request.

"(B) If IMA authorizes disclosure to a third party, other than the applicant or recipient's individual representative, pursuant to a valid authorization, the disclosure shall be limited to the information specifically identified in a written authorization from the applicant, recipient, or the individual's representative.

"(4) An applicant, recipient, or individual's representative who believes that information in an applicant's or recipient's record is inaccurate or misleading may request that IMA amend the information by submitting a written request for amendment setting forth the reason for the change, including documentation, where appropriate. Within 60 days after it receives the request, the IMA shall make a determination on the request and either make amendments to the record or deny the request.

"(A) The IMA may deny a request for amendment if the information

sought to be amended:

"(i) Was not created by IMA, unless the individual requesting the amendment provides a reasonable basis to believe that the originator of the protected health information or the information in the record is no longer available to act on the requested amendment;

"(ii) Is not part of the record;

"(iii) Is not available for inspection as provided in paragraph (3) of this subsection; or

"(iv) Is accurate and complete.

"(B) If the request for amendment is denied, the IMA shall provide the applicant, recipient, or the individual's representative with a written response setting forth the reason for denying the request for amendment and the procedures on how to request reconsideration of the decision, including a statement that the applicant, recipient, or individual's representative has a right to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement.

"(C) If the request for amendment is granted, the IMA shall notify the applicant, recipient, or individual's representative of the decision and how to obtain authorization concerning persons to be notified of the amendment.

"(D) All documentation generated from a request for amendment shall be included in the record of the applicant or recipient.

"(c) All information and records regarding an applicant or recipient provided to or created by the IMA, its representatives, or its employees, in the course of the administration of IMA programs, shall be privileged and confidential and shall only be disclosed:

"(1) To the applicant, recipient, or individual's representative, in accordance with subsection (b) of this section;

"(2) To a third party, with a written authorization signed by the applicant, the recipient, or the individual's representative authorizing disclosure of the specific record, or specific parts of the record; or

"(3) Without consent for one of the following purposes:

"(A) To administer IMA programs;

"(B) To aid in any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of IMA programs;

"(C) To administer any federal or federally-assisted program, which provides assistance, in cash or in-kind, or services directly to individuals on the basis of need;

"(D) To verify a state employment services agency for the purposes of providing information about a public assistance recipient's eligibility for employer tax credits, except that protected health information shall not be disclosed to such agency;

"(E) For an audit or similar activity, such as review of expenditure reports or financial review, conducted in connection with the administration of any public

assistance program by any governmental entity which is authorized by law to conduct such audit or activity;

"(F) To administer the unemployment compensation program for the District of Columbia or any other state unemployment compensation program, except that protected health information shall not be disclosed to such agency or program;

"(G) To report to the Metropolitan Police Department information on known or suspected instances of physical or mental injury, sexual abuse, or exploitation, or to report to the appropriate authority charged with investigating such allegations information on known or suspected instances of negligent treatment or maltreatment of a child or vulnerable adult receiving aid under circumstances which indicate that the child's or vulnerable adult's health or welfare is threatened; or

"(H) To comply with a court order (a subpoena being insufficient) issued by a court of competent jurisdiction to compel disclosure of an applicant's or recipient's record or testimony of any Mayor's representative concerning an applicant or recipient for purposes directly related to the purposes listed in subparagraphs (A) through (G) of this paragraph.

"(d)(1) The administrator of the IMA shall approve each request for disclosure of a record made pursuant to subsection (c)(3) of this section before the IMA releases the record, or any portion thereof. For each disclosure of a record pursuant to subsection (c)(3) of this section, the IMA shall:

"(A) Record the disclosure in the applicant's or recipient's record;

"(B) Disclose only the information minimally necessary to satisfy the purpose of the request; and

"(C) Maintain a central log accounting for disclosures of protected health information.

"(2) An accounting for an approved disclosure shall contain, at minimum, the following:

"(A) The date of the disclosure;

"(B) The name of the person or entity that received the information and, if known, the address of the entity or person;

"(C) A brief description of the information disclosed; and

"(D) A brief statement of the purpose of the disclosure that states the exact basis for disclosure or, in lieu of that statement, a copy of the written request for disclosure.

"(3) Accounting is not required if the information is disclosed:

"(A) To administer IMA programs, or to carry out treatment, payment, and health care operations;

"(B) To persons involved in the applicant's or recipient's care;

"(C) For national security or intelligence purposes;

"(D) To correctional institutions or law enforcement officials; or

"(E) Prior to April 14, 2003.

"(e) The IMA shall review a requestor's credentials to verify the requestor's identity and authority before disclosing records to an applicant, recipient, or individual's representative, or to a person requesting disclosure of records pursuant to subsection (c)(3) of this section.

"(f) The IMA shall implement appropriate procedures to ensure the security of records and to minimize inadvertent disclosures of confidential records, including protected health information.

"(g) The IMA shall retain all information in an applicant's and recipient's record for at least 3 years after the case is closed. A request for a disclosure of information under subsection (c)(3) of this section, along with the supporting documentation for each such request that the IMA is required to maintain under subsection (d) of this section, shall be retained by the IMA for at least 6 years, and shall be disclosed to an applicant, recipient, or individual representative upon written request.

"(h) The IMA shall ensure that IMA employees are trained on the provisions of this section and are aware that unauthorized use or disclosure of records may constitute cause for adverse or corrective personnel action.

"(i) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this section.".

Sec. 3. Applicability.

This act shall apply as of October 19, 2006.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Public Assistance Confidentiality of Information Amendment Act of 2006, signed by the Mayor on July 21, 2006 (D.C. Act 16-456; 53 DCR 6691), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
October 18, 2006

OCT 2 7 2006
ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-485

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
OCTOBER 18, 2006

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

To amend, on a temporary basis, the Prevention of Child Abuse and Neglect Act of 1977 to include limited grant-making authority among the duties and powers of the Director of the Child and Family Services Agency.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child and Family Services Grant-making Temporary Amendment Act of 2006".

Sec. 2. Section 303(a-1) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1303.03(a-1)), is amended by adding a new paragraph (3A) to read as follows: **Note, § 4-1303.03**

"(3A) To issue grants to community and neighborhood-based groups for programs that deliver prevention and intervention services;".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
October 18, 2006