

AN ACT

D.C. ACT 16-486

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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District of
Columbia
Official Code*

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To amend, on a temporary basis, Chapter 20 of Title 21 of the District of Columbia Official Code to clarify presumption of incapacity, to add definitions of "best interests", "emergency care", "incapacitated individual for health-care decisions", and "substituted judgment", to amend the definition of "guardian", to permit the court to waive the appointment of a visitor and examiner in certain circumstances, to prohibit the appointment of a guardian with a conflict of interest, to require guardians to limit their caseload, to require the court to appoint the type of guardian which is least restrictive to the individual, to authorize the court to appoint a health-care guardian, to clarify the powers and duties of guardians, and to clarify the reasons that the court may remove a guardian; to amend Chapter 22 of Title 21 of the District of Columbia Official Code to authorize psychologists to certify incapacity to make a health-care decision, to provide that nothing in this chapter condones mercy-killing or conflicts with the Emergency Medical Treatment and Labor Act, to permit court-appointed mental retardation advocates to provide substituted consent for health-care decisions for incapacitated customers, and to authorize a health-care provider, the District of Columbia, or an interested person to file a petition for the appointment of a limited guardian if there is no individual who can act as a substitute health-care decision-maker for an incapacitated customer; and to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to add definitions of "behavioral plan", "best interests", "comprehensive evaluation", "psychotropic medication", and "substituted judgment", to repeal a provision providing a process for authorizing emergency medical surgery for a customer that is inconsistent with federal law, and to require initial and periodic evaluations of the decision-making capacity of and the availability of health-care decision-making supports for Mental Retardation and Developmental Disabilities Administration ("MRDDA") customers, to require informed consent for services and to establish a process for informed consent for psychotropic medications, to require MRDDA to complete a comprehensive review of psychotropic medication use for all MRDDA customers within one year, to establish an MRDDA health-care decisions policy and to require the MRDDA Administrator to issue reports on those evaluations and the agency's health-care decision-making activities.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health-Care Decisions for Persons with Developmental Disabilities Temporary Amendment Act of 2006".

Sec. 2. Chapter 20 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) Section 21-2002 is amended by adding a new subsection (d) to read as follows:

Note, § 21-2002

“(d) An individual shall be presumed competent and to have the capacity to make legal, health-care, and all other decisions for himself or herself, unless certified otherwise under section 21-2204 or deemed incapacitated or incompetent by a court. Incapacity shall not be inferred from the fact that an individual:

“(1) Has been voluntarily or involuntarily hospitalized for mental illness pursuant to Chapter 5 of Title 21; or

“(2) Has mental retardation or has been determined by a court to be incompetent to refuse commitment under Chapter 13 of Title 7.”

(b) Section 21-2011 is amended as follows:

Note, § 21-2011

(1) Redesignate paragraph (1) as paragraph (1A).

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

“(1) “Best interests” means promoting personal well-being by assessing:

“(A) The reason for the proposed action, its risks and benefits, and any alternatives considered and rejected; and

“(B) The least intrusive, least restrictive, and most normalizing course of action possible to provide for the needs of the individual.”

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

“(5C) "Emergency care" means immediate treatment, including diagnostic treatment, provided in response to a sudden, acute, and unanticipated medical crisis in order to avoid injury, extreme pain, impairment, or death.”

(4) Paragraph (8) is amended to read as follows:

“(8) “Guardian” means a person other than a guardian ad litem who has qualified as a guardian of an incapacitated individual pursuant to court appointment, and includes:

“(A) A limited guardian whose powers are limited by the court as described in section 21-2044(c);

“(B) A temporary guardian appointed as described in section 21-2046 for a finite period of time to serve as:

“(i) An emergency guardian whose authority may not extend beyond 15 days and who may exercise any powers granted by court order and not prohibited by law;

“(ii) A health-care guardian whose authority is granted for up to 90 days and may be extended for up to an additional 90 days to provide substituted consent in accordance with section 21-2210 for an individual certified as incapacitated for a health-care

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decision; or

“(iii) A provisional guardian whose authority is granted for a specified period not to exceed 6 months, upon the court’s finding that any guardian is not effectively performing duties and that the welfare of the incapacitated individual requires immediate action; and

“(C) A general guardian not limited by the court in scope as described in section 21-2044(c) or in time as described in section 21-2046.”.

(5) A new paragraph (11A) is added to read as follows :

“(11A) “Incapacitated individual for health-care decisions” means an adult individual who lacks sufficient mental capacity to:

“(A) Appreciate the nature and implications of a health-care decision;

“(B) Make a choice regarding the alternatives presented; or

“(C) Communicate that choice in an unambiguous manner.”.

(6) A new paragraph (25A) is added to read as follows:

“(25A) “Substituted judgment” means making a decision that conforms as closely as possible with the decision that the individual would have made, based upon knowledge of the beliefs, values, and preferences of the individual.”.

(c) Section 21-2041 is amended as follows:

(1) Subsection (a) is amended by striking the word “limited” and inserting the phrase “limited, temporary,” in its place.

(2) Subsection (d) is amended by adding the following sentence at the end: “The court shall waive the appointments of a visitor and examiner if the petition seeks appointment of an emergency guardian or a health-care guardian and the petition is supported by the certification of incapacity made pursuant to section 21-2204.”.

(3) Subsection (f) is amended by striking the second and third sentences and inserting the following sentence in their place: “The court may waive the appointment of a visitor and, where a current individual habilitation plan prepared pursuant to section 7-1304.03 is submitted to the court, the court may waive the appointment of an examiner.”.

(4) Subsection (g) is amended as follows:

(A) Strike the phrase “other individual” and insert the word “individual” in its place.

(B) Add the following sentence at the end: “For an individual alleged to be incapacitated for health-care decisions, the certification of incapacity made pursuant to section 21-2204 shall be presented as evidence to the court.”.

(d) Section 21-2043 is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

“(a-1)(1) Except as provided in paragraph (2) of this subsection, a person may not be appointed as a guardian if the person:

“(A) Provides substantial services to the incapacitated individual in a professional or business capacity;

“(B) Is a creditor of the incapacitated individual; or

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§ 21-2043

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“(C) Is employed by any person or entity that provides services to the incapacitated individual in a professional or business capacity.

“(2) Notwithstanding the provisions of subsection (a-1) of this section, a person may be appointed as a guardian if the person is the incapacitated individual’s spouse, domestic partner, adult child, parent, adult sibling, or relative with whom the incapacitated individual has resided for more than 6 months prior to the filing of the petition and the court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the best interests of the incapacitated individual. The court may not appoint a guardian in any other circumstance in which a conflict of interest may occur.”.

(2) Subsection (c) is amended by adding a new paragraph (3A) to read as follows:

“(3A) An adult sibling of the incapacitated individual or a person nominated by will of a deceased sibling or by other writing signed by an adult sibling and attested by at least 2 witnesses;”.

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

“(e) A guardian shall limit his or her caseload to a size that allows the guardian:

“(1) To accurately and adequately support and protect each ward;

“(2) To make a minimum of one visit per month with each ward; and

“(3) To have regular contact with service providers.”.

(e) Section 21-2044(a) is amended to read as follows:

“(a) The court shall exercise the authority conferred in this subchapter so as to encourage the development of maximum self-reliance and independence of the incapacitated individual. The court, on appropriate findings, may appoint a limited guardian, a temporary guardian, or a general guardian. When the court appoints a guardian, it shall appoint the type of guardianship which is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual’s current mental and adaptive limitations or other conditions warranting the procedure.”.

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(f) Section 21-2046 is amended to read as follows:

“§ 21-2046. Temporary guardians.

“(a) Temporary guardians are guardians appointed for a finite period of time. Temporary guardians include emergency guardians, health-care guardians, and provisional guardians. All provisions of this chapter apply to temporary guardians unless otherwise specified.

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§ 21-2046

“(b)(1) The court, on appropriate petition, may appoint an emergency guardian, whose authority may not extend beyond 15 days, if:

“(A) An incapacitated individual has no guardian;

“(B) A life-threatening situation or situation involving emergency care exists; and

“(C) No other person appears to have authority to act within the circumstances.

“(2) An emergency guardian appointed pursuant to this subsection may exercise

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those powers granted in the order

“(3) Immediately upon receipt of the petition, the court shall appoint counsel for the individual alleged to be incapacitated and provide notice to the individual alleged to be incapacitated and to interested persons, pursuant to section 21-2042.

“(4) The individual alleged to be incapacitated, counsel for that individual, or any other interested person may request a hearing at any time within the period of the temporary guardianship. The hearing shall be held no later than 48 hours after the request.

“(5) The court may extend the authority of an emergency guardian appointed pursuant to this subsection to authorize the emergency guardian to serve as a health-care guardian consistent with subsection (c) of this section.

“(c)(1) The court, on appropriate petition, may appoint a health-care guardian for the individual alleged to be incapacitated for a specified period of time of up to 90 days if:

“(A) An individual has been determined to be incapacitated under section 21-2204;

“(B) The individual has no guardian; and

“(C) No other person appears to have authority to act within the circumstances.

“(2) The health-care guardian shall have the powers and duties set forth at section 21-2047b(b).

“(3) An appropriate petition shall include the certification of incapacity made pursuant to section 21-2204. Immediately upon receipt of the petition, counsel shall be appointed for the individual alleged to be incapacitated, and notice provided to the individual alleged to be incapacitated and to interested persons, pursuant to section 21-2042. The hearing shall be held within 7 days of receipt of the petition.

“(4) The court may extend the authority of a health-care guardian for one additional period of up to 90 days:

“(A) Upon determination of continued incapacity and determination of a continued need for the provision of substituted consent for any health-care service, treatment, or procedure pursuant to section 21-2210; or

“(B) If a petition for a permanent limited guardian or general guardian, pursuant to section 21-2041, has been filed with the court prior to the expiration of the appointment of the temporary guardian.

“(d) If the court finds that any appointed guardian is not effectively performing duties and that the welfare of the ward requires immediate action, it may appoint, with notice to interested parties within 14 day after the appointment, a provisional guardian. The provisional guardian shall have the powers set forth in the previous order of appointment for a specified period not to exceed 6 months. The authority of any permanent guardian previously appointed by the court is suspended as long as a provisional guardian has authority.”

(g) Section 21-2047 is amended as follows:

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

“§ 21-2047. Powers and duties of general guardian and limited guardian.”

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(2) The lead-in text is amended by striking the word "guardian" and inserting the phrase "a general guardian or a limited guardian" in its place.

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

(A) The lead-in text is amended by striking the word "guardian" and inserting the phrase "general guardian or limited guardian" in its place.

(B) Paragraph (4) is amended by striking the word "and" at the end.

(C) Paragraph (5) is amended by striking the phrase "as required by court rule, but at least semi-annually." and inserting the phrase "on any order of the court, but at least semi-annually;" in its place.

(D) New paragraphs (6) and (7) are added to read as follows:

"(6) Make decisions on behalf of the ward by conforming as closely as possible to a standard of substituted judgment or, if the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, make the decision on the basis of the ward's best interests; and

"(7) Encourage the ward to participate with the guardian in the decision-making process to the maximum extent of the ward's ability in order to encourage the ward to act on his or her own behalf whenever he or she is able to do so, and to develop or regain capacity to make decisions in those areas in which he or she is in need of decision-making assistance, to the maximum extent possible."

(4) The lead-in text of subsection (b) is amended by striking the word "guardian" and inserting the phrase "general guardian or limited guardian" in its place.

(5) Subsection (c) is repealed.

(h) New sections 21-2047a and 21-2047b are added to read as follows:

"§ 21-2047a. Limitations on temporary, limited, and general guardians.

"A guardian shall not have the power:

"(1) To consent to an abortion, sterilization, psycho-surgery, or removal of a bodily organ except to preserve the life or prevent the immediate serious impairment of the physical health of the incapacitated individual, unless the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court;

"(2) To consent to convulsive therapy, experimental treatment or research, or behavior modification programs involving aversive stimuli, unless the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court;

"(3) To consent to the withholding of non-emergency, life-saving, medical procedures unless it appears that the incapacitated person would have consented to the withholding of these procedures and the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court;

"(4) To consent to the involuntary or voluntary civil commitment of an incapacitated individual who is alleged to be mentally ill and dangerous under any provision or proceeding occurring under Chapter 5 of Title 21, except that a guardian may function as a petitioner for the commitment consistent with the requirements of Chapter 5 of Title 21 or

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Chapter 13 of Title 7;

“(5) To consent to the waiver of any substantive or procedural right of the incapacitated individual in any proceeding arising from an insanity acquittal; or

“(6) To prohibit the marriage or divorce, or consent to the termination of parental rights, unless the power is expressly set forth in the order of appointment or after subsequent hearing and order of the court.

“§ 21-2047b. Powers and duties of emergency and health-care guardians.

“(a) Except as limited by sections 21-2046 and 21-2047a, an emergency guardian or health-care guardian is responsible for providing substituted consent for an incapacitated individual and for any other duties authorized by the court, but is not personally liable to third persons by reason of that responsibility or acts of the incapacitated individual.

“(b) An emergency or health-care guardian shall:

“(1) Become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of his or her capacities, limitations, needs, opportunities, and physical and mental health;

“(2) Make decisions on behalf of the ward by conforming as closely as possible to a standard of substituted judgment or, if the ward’s wishes are unknown and remain unknown after reasonable efforts to discern them, make the decision on the basis of the ward’s best interests;

“(3) Encourage the ward to participate with the guardian in the decision-making process to the maximum extent of the ward’s ability in order to encourage the individual to act on his or her own behalf whenever he or she is able to do so, and to develop or regain capacity to make decisions in those areas in which he or she is in need of decision-making assistance, to the maximum extent possible; and

“(4) Make any report the court requires.

“(c) An emergency or health-care guardian may:

“(1) Grant, refuse, or withdraw consent to medical examination and health-care treatment for which the individual has been deemed incapacitated pursuant to section 21-2204;

“(2) Obtain medical records for the purpose of providing substituted consent pursuant to section 21-2210; and

“(3) Have the status of a legal representative under Chapter 12 of Title 7.”

(i) Section 21-2049(a) is amended to read as follows:

“(a)(1) On petition of the guardian, the court, after hearing, may accept a resignation of a guardian.

“(2) The court may remove a temporary guardian at any time.

“(3) On petition of the ward or any interested person, or on the court’s own motion, the court, after hearing, may remove a limited guardian or a general guardian for any of the following reasons:

“(A) Failure to discharge his or her duties, including failure to conform as closely as possible to a standard of substituted judgment or, if the ward’s wishes are unknown and remain unknown after reasonable efforts to discern them, to make a decision on

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the basis of the ward's best interests, pursuant to section 21-2047(a)(6) or 21-2047b(b)(2);

“(B) Abuse of his or her powers;

“(C) Failure to comply with any order of the court;

“(D) Failure to educate or provide for the ward as liberally as the ward's financial situation permits, if education and financial management fall within the scope of the guardianship;

“(E) Interference with the ward's progress or participation in programs in the community; or

“(F) For any other good cause.”

Sec. 3. Chapter 22 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) Section 21-2202 is amended by adding a new paragraph (6A) to read as follows:

“(6A) “Qualified psychologist” means a person who is licensed pursuant to § 3-1205.01 and has:

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§ 21-2202

“(A) One year of formal training within a hospital setting; or

“(B) Two years of supervised clinical experience in an organized health-care setting, one year of which must be post-doctoral.”

(b) Section 21-2204(a) is amended as follows:

(1) Strike the word “physicians” wherever it appears and insert the word “professionals” in its place.

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§ 21-2204

(2) Strike the second sentence and insert the sentence “One of the 2 certifying professionals shall be a physician and one shall be a qualified psychologist or psychiatrist.” in its place.

(c) Section 21-2210 is amended as follows:

(1) Subsection (a) is amended to add a new paragraph (1A) to read as follows:

“(1A) A court-appointed mental retardation advocate of the patient, if the ability to grant, refuse, or withdraw consent is within the scope of the advocate's appointment under section 7-1304.13.”

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(2) A new subsection (h) is added to read as follows:

“(h) If no person listed in subsection (a) of this section is reasonably available, mentally capable, and willing to act, the health-care provider, or the District of Columbia, for those persons committed or admitted to receive habilitation or other services pursuant to Chapter 13 of Title 7, or any interested person may petition the Superior Court of the District of Columbia for appointment of a health-care guardian pursuant to section 21-2044 or section 21-2046.”

(d) Section 21-2212 is amended to read as follows:

“§ 21-2212. Effect of chapter.

“(a) Nothing in this chapter shall be construed to condone, authorize, or approve mercy-killing or to permit any affirmative or deliberate act to end a human life other than to permit the natural dying process.

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“(b) Nothing in this chapter shall be construed to conflict with or supersede, the

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Emergency Medical Treatment and Labor Act, approved April 17, 1986 (100 Stat. 164; 42 U.S.C. § 1395dd).

“(c) Emergency health care may be provided without consent to a patient who is certified incapacitated under § 21-2204 if no authorized person is reasonably available or if, in the reasonable medical judgment of the attending physician, attempting to locate an authorized person would cause:

- “(1) A substantial risk of death;
- “(2) The health of the incapacitated individual to be placed in serious jeopardy;
- “(3) Serious impairment to the incapacitated individual’s bodily functions; or
- “(4) Serious dysfunction of any bodily organ or part.”.

Sec. 4. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.02 *et seq.*), is amended as follows:

(a) Section 103 (D.C. Official Code § 7-1301.03) is amended as follows:

(1) Redesignate paragraph (2A) as paragraph (2C).

(2) New paragraphs (2A) and (2B) are added to read as follows:

“(2A) “Behavioral plan” means a written plan that, at a minimum:

“(A) Identifies challenging or problematic behavior;

“(B) States the working hypothesis about the cause of the individual’s behavior and uses the working hypothesis as the basis for the selected intervention;

“(C) Identifies strategies to teach or encourage the individual to adopt adaptive behavior as an alternative to the challenging or problematic behavior;

“(D) Considers the potential for environmental or programmatic changes which could have a positive impact on challenging or problematic behaviors; and

“(E) Addresses the individual’s need for additional technological or supervisory assistance to adapt or cope with day to day activities.

“(2B) “Best interests” means promoting personal well-being by assessing:

“(A) The reason for the proposed action, its risks and benefits, and any alternatives considered and rejected; and

“(B) The least intrusive, least restrictive, and most normalizing course of action possible to provide for the needs of the individual.”.

(3) Paragraph (6) is amended to read as follows:

“(6) “Comprehensive evaluation” means an assessment of a person with mental retardation by persons with special training and experience in the diagnosis and habilitation of persons with mental retardation, which includes a documented sequence of observations and examinations intended to determine the person’s strengths, developmental needs, and need for

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services. The initial comprehensive evaluation shall include, but not be limited to,

documentation of:

- “(A) A physical examination that includes the person's medical history;
- “(B) An educational evaluation, vocational evaluation, or both;
- “(C) A psychological evaluation, including an evaluation of cognitive and adaptive functioning levels;
- “(D) A social evaluation;
- “(E) A dental examination;
- “(F) An evaluation of whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment; and
- “(G) A determination of whether the person:
 - “(i) Has executed or could execute a durable power of attorney in accordance with D.C. Official Code § 21-2205;
 - “(ii) Has been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and declined; or
 - “(iii) Has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210.”.

(4) A new paragraph (20A) is added to read as follows:

“(20A) “Psychotropic medication ” means a medication prescribed for the treatment of symptoms of mental or emotional disorders or to influence and modify behavior, cognition, or affective state. The term “psychotropic medication” includes the following categories of medications:

- “(A) Antipsychotics or neuroleptics;
- “(B) Antidepressants;
- “(C) Agents for control of mania or depression;
- “(D) Antianxiety agents;
- “(E) Sedatives, hypnotics, or other sleep-promoting drugs; and
- “(F) Psychomotor stimulants.”.

(5) A new paragraph (24C) is added to read as follows:

“(24C) “Substituted judgment” means making a decision that conforms as closely as possible with the decision that the individual would have made, based upon knowledge of the beliefs, values, and preferences of the individual.”.

(b) Section 413 (D.C. Official Code § 7-1304.13) is amended by adding a new subsection (n) to read as follows:

“(n) If so authorized by the Court, the mental retardation advocate shall be permitted to grant, refuse, or withdraw consent on behalf of his or her client with respect to the provision of any health-care service, treatment, or procedure, consistent with the provisions of Chapter 22 of Title 21 of the District of Columbia Official Code.”.

(c) Section 504(a) (D.C. Official Code § 7-1305.04(a)) is amended to read as follows:

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§ 7-1304.13

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§ 7-1305.04

"(a)(1) Prior to each customer's commitment under this act, the customer shall receive, pursuant to section 403, a comprehensive evaluation or screening and an individual habilitation plan. Within 30 days of a customer's admission pursuant to section 302, the customer shall have a comprehensive evaluation or screening and an individual habilitation plan.

"(2) All individual habilitation plans shall include information on whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment and shall identify whether the person:

"(A) Has executed or could execute a durable power of attorney in accordance with D.C. Official Code § 21-2205;

"(B) Has been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and declined; or

"(C) Has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210.

"(3) Annual reevaluations or screenings of the customer shall be provided as determined by the customer's interdisciplinary team. Annual reevaluations and screenings shall include a review and update to the individual habilitation plan information on whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment and whether the person:

"(A) Has executed or could execute a durable power of attorney in accordance with D.C. Official Code § 21-2205;

"(B) Has been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and declined; or

"(C) Has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210.

"(4) By no later than January 1, 2007, MRDDA shall establish written procedures for incorporating a review of all mental health services, including psychotropic medications, behavioral plans, and any other psychiatric treatments, into the annual reevaluations and screenings conducted by the customer's interdisciplinary team.

"(5) Nothing in this subsection shall be construed as requiring any person to execute a durable power of attorney for health care."

(d) New sections 506a, 506b, and 506c are added to read as follows:

"Sec. 506a. Informed consent.

"(a) Except in accordance with the procedures described in subsections (b) and (c) of this section, in D.C. Official Code § 21-2212, or as otherwise provided by law, no MRDDA customer shall be given services pursuant to this act absent the customer's informed consent. In seeking informed consent, the provider or MRDDA shall present the customer with available options and all material information necessary to make the decision, including information about the proposed service, potential benefits and risks of the proposed service, potential benefits and risks of no service, side effects, and information about feasible alternative services, if any.

"(b) If the provider or MRDDA reasonably believes that the customer lacks the

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§ 7-1305.06

capacity to provide informed consent for the proposed service, the provider or MRDDA promptly shall seek a determination of the individual's capacity in accordance with D.C. Official Code § 21-2204. If the individual is certified as incapacitated for health-care decisions in accordance with D.C. Official Code § 21-2204, MRDDA or the provider shall promptly seek the provision of substituted consent from the customer's attorney-in-fact pursuant to D.C. Official Code § 21-2206 or, if no attorney-in-fact has been authorized pursuant to D.C. Official Code § 21-2205 or is reasonably available, mentally capable, and willing to act, from an individual authorized to provide substituted consent pursuant to D.C. Official Code § 21-2210.

“(c) If the customer is certified as incapacitated and unable to consent to the proposed service in accordance with D.C. Official Code § 21-2204, and no attorney-in-fact or person listed in D.C. Official Code § 21-2210(a) is reasonably available, mentally capable, and willing to act:

“(1) For any proposed services except psychotropic medications, the District shall petition the Court for appointment of a guardian pursuant to Chapter 20 of Title 21. The District's petition shall request the form of guardianship which is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual's current mental and adaptive limitations or other conditions warranting the procedure. This subsection does not preclude any other party from petitioning the Court for appointment of a guardian; or

“(2) For all proposed psychotropic medications, beginning 90 days after September 25, 2006, the provider may administer medication only when the administration of medication is accompanied by a behavioral plan and only after receiving approval from an independent panel appointed by the MRDDA Administrator pursuant to section 506b.

“Sec. 506b. Review panel for administration of psychotropic medications.

“(a) Subject to the availability of appropriations, the MRDDA Administrator shall establish an independent panel to review all proposals to administer psychotropic medications to customers made pursuant to section 506a(c) and in accordance with the procedures set forth in this section and those to be developed by the Administrator as required by this section.

“(b) The panel shall be comprised of 3 members. The members of the panel and their employers shall be immune from suit for any claim arising from any good faith act or omission under this section. The members of the panel shall not be affiliated with the individual, the provider, or the physician seeking to administer the medication, but shall include:

“(1) A board-certified psychiatrist;

“(2) A licensed professional; and

“(3) A customer, or, if unavailable, a Mental Retardation Advocate or other customer advocate.

“(c) The administrative procedure established by MRDDA for the panel shall include, at a minimum:

“(1) A meeting by the panel no later than one week after MRDDA receives a request for consent;

“(2) Written and oral notice to the customer not less than 48 hours prior to when

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the panel will meet;

“(3) The right of the customer to be present when the panel meets and to have a representative present during any such meeting;

“(4) The opportunity, at the meeting of the panel, for the customer and his or her representative to present information and to discuss the wishes of the customer;

“(5) The issuance of a written decision by the panel no later than one week after the meeting of the panel, to be provided to the customer, the customer’s representative, and the provider; and

“(6) The right of the customer to request that the MRDDA Human Rights Advisory Committee review the decision of the panel.

“(d) If the customer requests a review by the MRDDA Human Rights Advisory Committee before the decision of the panel has been implemented, the decision shall not be implemented until after the MRDDA Human Rights Advisory Committee responds to the requested review. The MRDDA Human Rights Advisory Committee shall conduct the review at its next meeting or no later than 30 days after the request, whichever is earlier, and shall issue a response promptly.

“(e) The panel shall issue a written decision which may grant, refuse, or withdraw consent to the prescription of the proposed psychotropic medication. The panel shall seek to conform as closely as possible to a standard of substituted judgment or, if the individual’s wishes are unknown and remain unknown after reasonable efforts to discern them, make the decision on the basis of the individual’s best interests. If the panel grants consent, the consent shall be granted for a limited period of time and shall last no longer than 9 consecutive months.

“(f) For individuals for whom the panel has provided consent, MRDDA shall offer the individual the opportunity to execute a durable power of attorney in accordance with D.C. Official Code § 21-2205 and shall continue to seek to identify one or more individuals listed in D.C. Official Code § 21-2210(a) who may be reasonably available, mentally capable, and willing to act.

“(g) For individuals for whom the panel has provided consent for 3 or more consecutive months, and for whom there is a reasonable likelihood that no decision-maker will become available and that the individual will not achieve capacity during the next 6 months to make decisions regarding psychotropic medications on his or her own behalf, the District shall petition the Court for appointment of a guardian pursuant to Chapter 20 of Title 21 of the District of Columbia Official Code. The District’s petition shall request the type of guardianship which is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual’s current mental and adaptive limitations or other conditions warranting the procedure. This subsection does not preclude any other party from petitioning the Court for appointment of a guardian.

“(h) Refusal to consent to psychotropic medications shall not be used as evidence of an individual’s incapacity.

“(i) Refusal to consent to services on the basis of a valid religious objection shall not be overridden absent a specific court order requiring the provision of services.

“Sec. 506c. Psychotropic medication review.

“(a) No later than one year after September 25, 2006, the MRDDA shall complete a psychotropic medication review for all MRDDA customers.

“(b) No later than 90 days after September 25, 2006, the MRDDA shall establish written procedures, which shall include timelines and shall identify responsible entities or individuals, for promptly implementing the recommendations for each customer identified by the psychotropic medication review.

“(c) The psychotropic medication review shall be conducted by a review team that includes professionals with expertise in the prescription, use, and side effects of psychotropic medications as therapy for individuals who have been dually diagnosed with mental retardation and mental illness.

“(d) The review team shall establish in writing:

“(1) Procedures for an initial administrative review of psychotropic medication prescriptions for all MRDDA customers;

“(2) Procedures and criteria for determining which customers receive only an initial administrative review of psychotropic medications, and which customers also receive a more detailed clinical review of psychotropic medications; and

“(3) Criteria for screening and determining the clinical appropriateness of each psychotropic medication prescribed for each customer.

“(e) The review team shall complete the initial administrative review of psychotropic medications within 90 days of September 25, 2006. The initial administrative review of psychotropic medications shall determine, at minimum, for each MRDDA customer:

“(1) All prescribed psychotropic medications;

“(2) The diagnosis justifying each prescription;

“(3) The provision of informed consent for each prescription;

“(4) The presence of an accompanying behavioral plan; and

“(5) Any other mental health services being provided to the customer.

“(f) The review team shall conduct a clinical review of psychotropic medications when the initial administrative review meets the review team’s criteria indicating that a detailed clinical review of the customer’s psychotropic medication is warranted. The clinical review shall seek to determine the clinical appropriateness of each prescribed psychotropic medication and the potential for alternative approaches. The clinical review shall include, at a minimum, interviews with the customer, the prescribing physician, and the customer’s residential and day service providers, if any.

“(g) By no later than 30 days after completing a psychotropic medication review of a customer, the review team shall issue a written report, which shall include recommendations for:

“(1) Continued use, modification, or termination of psychotropic medication;

“(2) Potential use of alternative approaches including therapies, behavioral plans, skill development, and environmental modifications;

“(3) Informed consent, if informed consent has not been provided; and

“(4) Development of a behavioral plan, if no behavioral plan is present.

“(h) A copy of the written report of the review team shall be appended to the customer’s individual habilitation plan and shall be provided to:

“(1) The customer;

“(2) The customer’s legal representative, if any;

“(3) The customer’s mental retardation advocate, if any;

“(4) The customer’s MRDDA case manager;

“(5) The individuals identified in the customer’s individual habilitation plan as reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210, if any;

“(6) The customer’s residential service provider; and

“(7) The Quality Trust for Individuals with Disabilities, Inc.”.

(e) Section 507 (D.C. Official Code § 7-1305.07) is repealed.

(f) A new section 507a (to be codified at D.C. Official Code § 7-1305.07a) is added to read as follows:

"Sec. 507a. Health-care decisions policy, annual plan, and quarterly reports.

“(a) It shall be the policy of the District government to ensure that all persons who become incapable of making or communicating health-care decisions for themselves have available health-care decision-makers. In addition, it shall be the policy of MRDDA to ensure that every MRDDA customer has the opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205, and has one or more individuals identified as reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210, if the customer were to become certified as incapacitated to make a health-care decision in accordance with D.C. Official Code § 21-2204.

“(b) The MRDDA Administrator shall issue by November 1 of each year an annual plan describing how MRDDA will comply with subsection (a) of this section during the current fiscal year. The plan shall include data from the prior fiscal year which assess the current and potential health-care decision-making needs of all MRDDA customers. The plan shall include, at a minimum:

“(1) Aggregate statistics summarizing the numbers of MRDDA customers who:

“(A) Have a general guardian, a limited guardian, a health-care guardian, or an emergency guardian as of the end of the prior fiscal year;

“(B) At any time during the prior fiscal year, had an emergency guardian authorized to make health-care decisions or a health-care guardian;

“(C) Have executed a durable power of attorney in accordance with D.C. Official Code § 21-2205;

“(D) Have been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and declined;

“(E) Have an individual identified as reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210; and

Note, Repeal
§ 7-1301.07
Note,
§ 7-1305.07

“(F) Lack any available substitute health-care decision-maker;

“(2) Aggregate statistics describing the numbers of customers taking psychotropic medications as of the end of the previous fiscal year, and an assessment of the degree to which health-care decision-making support for the prescription of psychotropic medication may be required for these customers;

“(3) Aggregate statistics describing the requests for consent reviewed during the prior fiscal year by the independent psychotropic medication panel authorized in section 506b, analyzing outcomes, monthly and yearly trends, and requests for review by the MRDDA Human Rights Committee;

“(4) Aggregate statistics describing for the prior fiscal year:

“(A) The number of substitute decisions which required intervention by MRDDA to identify an individual to provide substituted consent pursuant to D.C. Official Code § 21-2210;

“(B) The nature of the health-care needs and medical treatments; and

“(C) The average time elapsed between a request for a substituted decision and the provision of substituted consent; and

“(5) An analysis of the statistics described in this subsection, identification of yearly and multiyear trends, and a plan for remedial measures to be taken when the statistics identify process or service deficiencies.

“(c) The MRDDA Administrator shall produce a quarterly report on all substituted consent activities pursuant to subsection (a) of this section until October 2008. Quarterly reports shall be complete by the 15th day of October, January, April, and July and shall include:

“(1) Statistics describing:

“(A) The number of substitute decisions during the prior quarter which required intervention by MRDDA to identify an individual to provide substituted consent pursuant to D.C. Official Code § 21-2210;

“(B) The nature of the health-care needs and medical treatments for each substituted decision;

“(C) The time elapsed between each request for a substituted decision and the provision of substituted consent; and

“(D) If the process for identifying an individual to provide substituted consent pursuant to D. C. Official Code § 21-2210 is not complete, a summary of the specific barriers currently identified and the specific action needed; and

“(2) An analysis of the statistics described in this subsection, and a plan for remedial measures to be taken, when the statistics identify process delays.

“(d)(1) The MRDDA Administrator shall submit the annual plan described in subsection (b) of this section and the quarterly report described in subsection (c) of this section to:

“(A) The Committee of the Council under whose purview MRDDA falls;

“(B) The Mayor; and

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“(C) The designated state protection and advocacy agency for the District of Columbia established pursuant to the Protection and Advocacy for Mentally Ill Individuals Act of 1986, approved May 23, 1986 (100 Stat. 478; 42 U.S.C. § 10801 *et seq.*), and section 509 of the Rehabilitation Act of 1973, approved October 29, 1992 (106 Stat. 4430; 29 U.S.C. § 794e);

“(2) The MRDDA Administrator shall make copies of the annual plan and quarterly reports described in this section available to members of the public upon request.

“(e) Nothing in this section shall be construed as requiring any person to execute a durable power of attorney for health care.”.

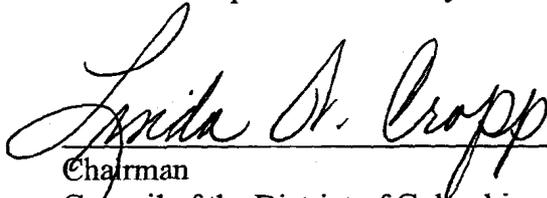
Sec. 5. Fiscal impact statement.

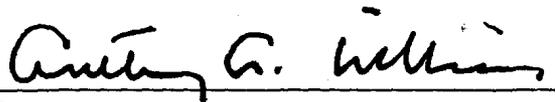
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. 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.


Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 18, 2006

AN ACT
D.C. ACT 16-487

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, the Prevention of Child Abuse and Neglect Act of 1977 to require certain records to be made available to the Child and Family Services Agency as part of an investigation of suspected child abuse or neglect.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child Abuse and Neglect Investigation Record Access Emergency Amendment Act of 2006".

Sec. 2. The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02 *et seq.*), is amended by adding a new section 106b to read as follows as follows:

"Sec. 106b. Obtaining records.

"(a) Notwithstanding any other provisions of law, upon the Agency's request, a person who is required to report suspected incidents of child abuse or neglect under section 2 of 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 5, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02), shall immediately provide the Agency copies of all records of a child who is the subject of a report of child abuse or neglect, or of any other child residing in the home where the abuse or neglect is alleged to have occurred, that are in the possession of the person or the person's employees.

"(b) The Agency shall request the records needed for its investigation conducted under Title I.

"(c) The Agency shall not be charged a fee for the records provided to it under this section."

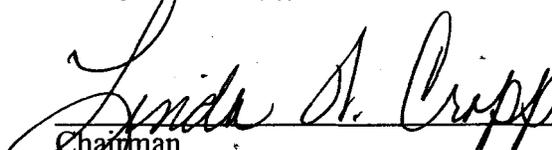
Sec. 3. Fiscal impact statement.

The Council adopts the 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)).

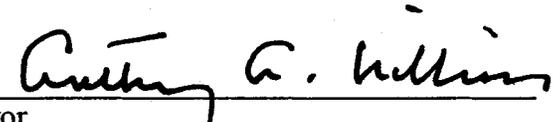
Sec. 4. Effective date.

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)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 18, 2006

AN ACT
D.C. ACT 16-488

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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Publisher

To amend the Anti-Drunk Driving Act of 1982 to revise the presumptions that shall be made based upon the amount of alcohol in a person's blood, urine, or breath while in the operation or physical control of a vehicle; Title 25 of the District of Columbia Official Code to revise the presumptions that shall be made based upon the amount of alcohol in a person's blood, urine, or breath while in the operation or physical control of a vessel or watercraft; the District of Columbia Government Comprehensive Merit Personnel Act of 1978; the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996; the Uniform Classification and Commercial Driver's License Act of 1990; the Motor Vehicle Safety Responsibility Act of the District of Columbia; the District of Columbia Traffic Act, 1925; and the District of Columbia Implied Consent Act to update the formula for determining a person's alcohol concentration as it pertains to the offense of driving while under the influence of liquor to reflect the measurements and ratios used by current technology; and to make conforming amendments to the District of Columbia Municipal Regulations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Anti-Drunk Driving Clarification Amendment Act of 2006".

Sec. 2. Section 2 of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2205.02), is amended to read as follows:

Amend
§ 50-2205.02

"Sec. 2. Evidence of intoxication.

"If as a result of the operation or the physical control of a vehicle, a person is tried in any court of competent jurisdiction within the District of Columbia for operating or being in physical control of a vehicle while under the influence of intoxicating liquor in violation of section 10(b) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1124; D.C. Official Code § 50-2201.05(b)), negligent homicide in violation of section 802(a) of An Act To establish a code of law for the District of Columbia, approved June 17, 1935 (49 Stat. 385; D.C. Official Code § 50-2203.01), or manslaughter committed in the operation of a vehicle in violation of section 802 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-2105), and in the

course of the trial there is received, based upon a chemical test, evidence of alcohol in the defendant's blood, urine, or breath, such evidence:

"(1) Shall, if at the time of testing, defendant's alcohol concentration was 0.05 grams or less per 100 milliliters of blood or per 210 liters of breath or 0.06 grams or less per 100 milliliters of urine, establish a rebuttable presumption that the defendant was not, at the time, under the influence of intoxicating liquor.

"(2) Shall not, if at the time of testing, defendant's alcohol concentration was more than 0.05 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams per 100 milliliters of urine, but less than 0.08 grams per 100 milliliters of blood or per 210 liters of breath or less than 0.10 grams per 100 milliliters of urine, establish a presumption that the defendant was or was not, at the time, under the influence of intoxicating liquor, but it may be considered with other competent evidence in determining whether the defendant was under the influence of intoxicating liquor."

Sec. 3. Title 25 of the District of Columbia Official Code is amended as follows:

Amend § 25-1004

(a) Section 25-1004(a) is amended as follows:

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

"(1) The person's alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine; or"

(2) Paragraph (2) is repealed.

(b) Section 25-1008 is amended as follows:

Amend § 25-1008

(1) In the introductory language, strike the phrase "the following standards shall apply to competent evidence based upon a chemical test:" and insert the phrase "and in the course of the trial there is received, based upon a chemical test, evidence of alcohol in the defendant's blood, urine, or breath, such evidence:"

(2) Paragraphs (1) and (2) are amended to read as follows:

"(1) Shall, if at the time of testing, defendant's alcohol concentration was 0.05 grams or less per 100 milliliters of blood or per 210 liters of breath or 0.06 grams or less per 100 milliliters of urine, establish a rebuttable presumption that the defendant was not, at the time, under the influence of intoxicating liquor.

"(2) Shall not, if at the time of testing, defendant's alcohol concentration was more than 0.05 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams per 100 milliliters of urine, but less than 0.08 grams per 100 milliliters of blood or per 210 liters of breath or less than 0.10 grams per 100 milliliters of urine, establish a presumption that the defendant was or was not, at the time, under the influence of intoxicating liquor, but it may be considered with other competent evidence in determining whether the defendant was under the influence of intoxicating liquor."

Sec. 4. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 2024 (D.C. Official Code § 1-620.24) is amended by striking the phrase "breath contained .08% or more, by weight, of alcohol" and inserting the phrase "alcohol concentration was 0.08 grams or more per 210 liters of breath" in its place.

Amend § 1-620.24

(b) Section 2033 (D.C. Official Code § 1-620.33) is amended by striking the phrase "breath contains .08 percent or more, by weight, of alcohol" and inserting the phrase "alcohol concentration is 0.08 grams or more per 210 liters of breath" in its place.

Amend § 1-620.33

Sec. 5. Section 4 of the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996, effective September 20, 1996 (D.C. Law 11-158; D.C. Official Code § 24-211.23), is amended as follows:

Amend § 24-211.23

(a) Subsection (e) is amended by striking the phrase "breath contained .08% or more, by weight, of alcohol" and inserting the phrase "alcohol concentration was 0.08 grams or more per 210 liters of breath" in its place.

(b) Subsection (f) is amended by striking the phrase "1 milliliter of the employee's breath (consisting of substantially alveolar air) contains .38 micrograms or more of alcohol." and inserting the phrase "210 liters of the employee's breath contains 0.08 grams or more of alcohol." in its place.

Sec. 6. Section 7(a)(1) of the Uniform Classification and Commercial Driver's License Act of 1990, effective September 20, 1990 (D.C. Law 8-161; D.C. Official Code § 50-406(a)(1)), is amended by striking the phrase "a blood alcohol concentration at or above 0.04% as established under 12008(f) of the Commercial Motor Vehicle Safety Act (40 U.S.C.S. § 2707(f))." and inserting the phrase "an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine." in its place.

Amend § 50-406

Sec. 7. Section 37(a) of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (69 Stat. 130; D.C. Official Code § 50-1301.37(a)), is amended by striking the phrase "individual's blood contains .08% or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of defendant's breath, consisting substantially of alveolar air, or while defendant's urine contains .10% or more, by weight, of alcohol" and inserting the phrase "person's alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

Amend § 50-1307.37

Sec. 8. 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(b) (D.C. Official Code § 50-2201.05(b)) is amended as follows:

Amend § 50-2201.05

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

(A) Subparagraph (A) is amended to read as follows:

"(A)(i) No person shall operate or be in physical control of any vehicle in the District:

"(I) When the person's alcohol concentration at the time of testing is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine;

"(II) While under the influence of intoxicating liquor or any drug or any combination thereof; or

"(III) If under 21 years of age, when the person's blood, breath, or urine contains any measurable amount of alcohol.

"(ii) Any person violating any provision of this paragraph upon conviction for the first offense, unless the person has been previously been convicted for a violation of paragraph (2) of this subsection, shall be fined \$300 and may be imprisoned for not more than 90 days. In addition, if the person's alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210 liters of breath, or was at least 0.25 grams per 100 milliliters of urine, but was not more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath, or was not more than 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for a mandatory minimum period of 5 days, or if the person's alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath or 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for an additional mandatory minimum period of 10 days, which mandatory minimum period shall not be suspended by the court."

(B) Subparagraph (B) is amended by striking the sentences "In addition, if the individual's blood contains at least .20%, but not more than .25%, by weight, of alcohol, the individual shall be imprisoned for an additional mandatory minimum period of 10 days, or if the level is more than .25%, by weight, of alcohol, for an additional mandatory minimum period of 20 days. The additional mandatory minimum period shall not be suspended by the court." and inserting the sentence "In addition, if the person's alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210 liters of breath, or was at least 0.25 grams per 100 milliliters of urine, but was not more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath, or was not more than 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for an additional minimum mandatory period of 10 days or if the person's alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for an additional mandatory minimum period of 20 days; which additional mandatory minimum periods shall not be suspended by the court." in its place.

(C) Subparagraph (C) is amended by striking the sentences "In addition, if the individual's blood contains at least .20%, but not more than .25%, by weight, of alcohol, the individual shall be imprisoned for an additional minimum mandatory period of 15 days, or if

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the level is more than .25%, by weight, of alcohol volume, for an additional mandatory minimum period of 25 days. The additional mandatory minimum period shall not be suspended by the court." and inserting the sentence "In addition, if the person's alcohol concentration was at least 0.20 grams per 100 milliliters of blood or per 210 liters of breath, or was at least 0.25 grams per 100 milliliters of urine, but was not more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath, or was not more than 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for an additional minimum mandatory period of 15 days, or if the person's alcohol concentration was more than 0.25 grams per 100 milliliters of blood or per 210 liters of breath or 0.32 grams per 100 milliliters of urine, the person shall be imprisoned for a mandatory minimum period of 25 days, which additional mandatory minimum periods shall not be suspended by the court." in its place.

(D) Subparagraph (D) is amended by striking the word "individual" wherever it appears and inserting the word "person" in its place.

(2) Paragraph (2) is amended by striking the word "individual" wherever it appears and inserting the word "person" in its place.

Sec. 9. Section 13(a) (D.C. Official Code § 50-1403.01(a)) is amended by striking the phrase "individual's blood contains .08% or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the individual's breath, consisting substantially of alveolar air, or while the individual's urine contains .10% or more, by weight, of alcohol" and inserting the phrase "person's alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

Amend
§ 50-1403.01

Sec. 10. The District of Columbia Implied Consent Act, approved October 21, 1972 (86 Stat. 1016; D.C. Official Code § 50-1901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 50-1902) is amended as follows:

Amend
§ 50-1902

(1) Subsection (a) is amended by striking the phrase "blood contains .08% or more, by weight, of alcohol, or .38 micrograms or more of alcohol are contained in 1 milliliter of that person's breath, consisting of substantially alveolar air, or that person's urine contains .10% or more, by weight, of alcohol" and inserting the phrase "alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

(2) Subsection (b) is amended by striking the phrase "blood contains .08% or more, by weight, of alcohol, or .38 micrograms or more of alcohol are contained in 1 milliliter of that person's breath, consisting of substantially alveolar air, or that person's urine contains .10% or more, by weight, of alcohol" and inserting the phrase "alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

ENROLLED ORIGINAL

(b) Section 5(a) (D.C. Official Code § 50-1905(a)) is amended by striking the phrase “individual’s blood contains .08% or more, by weight, of alcohol, or .38 micrograms or more of alcohol are contained in 1 milliliter of that person’s breath, consisting of substantially alveolar air, or that person’s urine contains .10% or more, by weight, of alcohol” and inserting the phrase “person’s alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

Amend
§ 50-1905

(c) Section 6(a)(1) (D.C. Official Code § 50-1906(a)(1)) is amended by striking the phrase “blood contains .08% or more, by weight, of alcohol, or .38 micrograms or more of alcohol are contained in 1 milliliter of that person’s breath, consisting of substantially alveolar air, or that person’s urine contains .10% or more, by weight, of alcohol” and inserting the phrase “alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

Amend
§ 50-1906

Sec. 11. Chapter 39 of Title 6 of the District of Columbia Municipal Regulations is amended as follows:

(a) Section 3902.2(d) is amended by striking the phrase “breath contains .08 percent or more, by weight, of alcohol” and inserting the phrase “alcohol concentration was 0.08 grams or more per 210 liters of breath” in its place.

6 DCMR

(b) Section 3905.4 is amended by striking the phrase “breath contains .08 percent or more, by weight, of alcohol” and inserting the phrase “alcohol concentration was 0.08 grams or more per 210 liters of breath” in its place.

Sec. 12. Title 18 of the District of Columbia Municipal Regulations is amended as follows:

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(a) Chapter 3 is amended as follows:

(1) Section 301.1(a) is amended by striking the phrase “blood contains eight one-hundredths of one percent (.08%) or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the person’s breath, consisting substantially of alveolar air, or while the person’s urine contains ten one-hundredths of one percent (.10%) or more, by weight, of alcohol” and inserting the phrase “alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

(2) Section 303.2(n) is amended by striking the phrase “blood contains eight one-hundredths of one percent (.08%) or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the person’s breath, consisting substantially of alveolar air, or while the person’s urine contains ten one-hundredths of one percent (.10%) or more, by weight, of alcohol” and inserting the phrase “alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine” in its place.

(3) Section 306.8 is amended by striking the phrase “blood contains eight one-

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hundredths of one percent (.08%) or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the person's breath, consisting substantially of alveolar air, or while the person's urine contains ten one-hundredths of one percent (.10%) or more, by weight, of alcohol" and inserting the phrase "alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

(4) Section 307.4 is amended by striking the phrase "individual's blood contains .08% or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the person's breath, consisting substantially of alveolar air, or while the person's urine contains .10% or more, by weight, of alcohol" and inserting the phrase "person's alcohol concentration is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine" in its place.

(b) Section 1034 of Chapter 10 is amended as follows:

(1) Subsection 1034.1 is amended as follows:

(A) Strike the phrase "blood alcohol content" and insert the phrase "alcohol concentration" in its place.

(B) Add the sentence "These presumptions shall be rebuttable." after the first sentence.

(2) Subsection 1034.2 is amended to read as follows:

"1034.2 If at the time of testing, the operator's alcohol concentration was 0.05 grams or less per 100 milliliters of blood or per 210 liters of breath or 0.06 grams or less per 100 milliliters of urine, this evidence shall establish a presumption that the operator was not, at the time, under the influence of intoxicating liquor."

(3) Subsection 1034.3 is amended to read as follows:

"1034.3 If at the time of testing, the operator's alcohol concentration was more than 0.05 grams per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams per 100 milliliters of urine, but less than 0.08 grams per 100 milliliters of blood or per 210 liters of breath or less than 0.10 grams per 100 milliliters of urine, this evidence shall not establish a presumption that the operator was or was not, at the time, under the influence of intoxicating liquor, but it may be considered with other competent evidence in determining whether the operator was under the influence of intoxicating liquor."

(c) Chapter 13 is amended as follows:

(1) Section 1306.1(b) is amended to read as follows:

"(b) Having an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine while operating a commercial vehicle;"

(2) Section 1319.3 is amended by striking the phrase "blood alcohol content was determined to be less than four hundredths of one percent (0.04%)." and inserting "alcohol concentration was determined to be less than 0.04 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine." in its place.

(3) Section 1320.3 is amended to read as follows:

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"1320.3 If the person refuses testing in § 1320.1, or submits to a test that discloses an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the authorized law enforcement officer who has stopped or detained the driver shall submit a sworn report to the Department of Motor Vehicles certifying that the test was requested pursuant to § 1320.1 and that the person refused to submit to testing, or submitted to a test that disclosed an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine."

(4) Subsection 1399.1 is amended by striking the sentence "Chemical Test - a test of a person's blood urine or breath for the purpose of determining the blood-alcohol-content or blood-drug-content in accordance with D.C. Official Code §§ 50-1902 and 50-1903, except the blood-alcohol-content shall be four hundredths of one percent (0.04%) instead of one tenth percent (0.10%)." and inserting the sentence "Chemical Test - a test of a person's blood, urine, or breath for the purpose of determining the alcohol concentration or blood-drug-content in accordance with D.C. Official Code §§ 50-1902 and 50-1903, except the alcohol concentration shall be 0.04 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine instead of 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine." in its place.

Sec. 13. Fiscal impact statement.

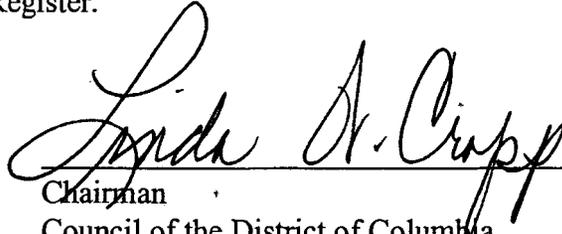
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

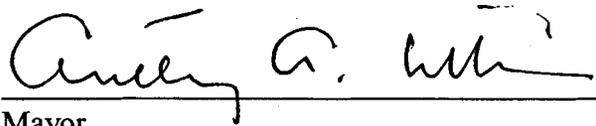
Sec. 14. Effective date.

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 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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


Chairman
Council of the District of Columbia



Mayor
District of Columbia
Approved
October 18, 2006

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AN ACT
D.C. ACT 16-489

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 Metro Bus Funding Requirement Act of 2004 to allow the Washington Metropolitan Transit Authority to purchase compressed natural gas vehicles or vehicles that meet or exceed current compressed natural gas standards.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Metro Bus Funding Requirement Temporary Amendment Act of 2006".

Sec. 2. Sections 7062 and 7063 of the Metro Bus Funding Requirement Act of 2004, effective August 2, 2004 (D.C. Law 15-205; 51 DCR 8441), are amended to read as follows:

"Sec. 7062.

"It is the position of the District of Columbia government that the Washington Metropolitan Area Transit Authority shall procure Compressed Natural Gas ("CNG") transit buses or other buses that are technically efficient and environmentally friendly and comparable to or better than CNG vehicles.

Note,
§ 9-1111.08

"Sec. 7063.

"Beginning in fiscal year 2007, the Mayor shall submit a budget for the Washington Metropolitan Area Transit Authority to the Council of the District of Columbia that authorizes the purchase of CNG buses or buses that are technically efficient and environmentally friendly with emissions that are comparable to or better than CNG vehicles."

Note,
§ 9-1111.08

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

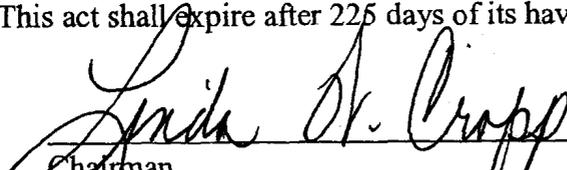
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DISTRICT OF COLUMBIA REGISTER

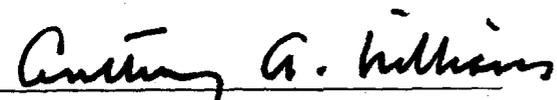
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December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 18, 2006

AN ACT

D.C. ACT 16-490

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

*Codification
District of
Columbia
Official Code*

2001 Edition

2007 Winter
Supp.

West Group
Publisher

To establish, on an emergency basis, due to Congressional review, 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 1½ 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,

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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

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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.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Public Safety Congressional Review Emergency 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

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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:

(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.

Note,
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(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:

"(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:

Note,
§ 2-1902

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"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."

Note,
§ 2-1902

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:

(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:

"(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

Note,
§ 4-1305.01

Note,
§ 4-1305.03

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“(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:

Note,
§ 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:

Note,
§ 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:

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“(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.

Note,
§ 4-1321.03

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

Note,
§ 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:

Note,
§ 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;

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“(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.”.

Note,
§ 4-1501.05

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:

Note,
§ 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:

Note,
§ 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.

Note,
§ 16-2317

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

Note,
§ 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:

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

Note,
§ 16-2325.01

“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.”

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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 Note,
§ 22-404 to read as follows:

“(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: Note,
§ 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:

Note,
§ 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:

Note,
§ 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:

Note,
§ 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:

Note,
§ 22-2723

“Sec. 6. Impoundment.

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“(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.

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“(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:

Note,
§ 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.”

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:

Note,
§ 22-2704

"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:

Note,
§ 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:

Note,
§ 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:

“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.

Note,
§ 22-2707

Note,
§ 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.

Note,
§ 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:

(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:

Note,
§ 22-3001

“(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:

“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.

Note,
§ 22-3010

Note,
§ 22-3010

"(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 than 180 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:

Note,
§ 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:

Note,
§ 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:

Note,
§ 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:

Note,
§ 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:

Note, § 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:

Note, § 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:

Note, § 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. Section 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:

Note,
§ 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:

Note,
§ 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:

Note,
§ 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.

Note,
§ 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:

Note,
§ 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:

Note,
§ 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:

Note,
§ 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:

Note,
§ 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:

Note,
§ 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:

(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:

“(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.”.

Note,
§ 23-113

Note,
§ 23-1331

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:

“(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.”.

Note,
§ 48-904.07a

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.

Note,
§ 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:

Note,
§ 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:

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

Note,
§ 48-1102

"(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:

Note,
§ 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

ENROLLED ORIGINAL

“(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.

Note,
§ 50-2201.05

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

Note,
§ 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

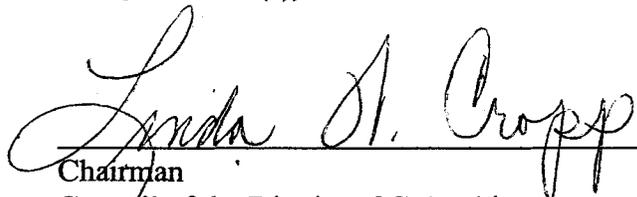
Sec. 301. Fiscal impact statement.

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)).

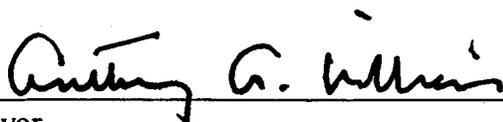
Sec. 302. Effective date.

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), 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)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 18, 2006