

AN ACT

D.C. ACT 15-650

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 3, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend Chapter 46 of Title 47 of the District of Columbia Official Code to exempt the CareFirst, Inc., headquarters building project from sales and use taxes during the construction phase of this project and to grant certain employment tax credits to CareFirst, Inc., for each new District of Columbia resident hired during a period of 5 years.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "CareFirst Economic Assistance Act of 2004".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the section designation "47-4602. Tax credit to CareFirst for wages to qualified employees; sales tax exemption." at the end.

New
§ 47-4602

(b) A new section 47-4602 is added to read as follows:

"§ 47-4602. Tax credit to CareFirst for wages to qualified employees; sales exemption for construction.

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

"(1) "CareFirst " means CareFirst, Inc., a Maryland non-stock corporation, which is the sole member of Blue Cross Blue Shield of the National Capital Area and licensed to do business in the District as Group Hospitalization and Medical Services, Inc.

"(2) "CareFirst Project " means the acquisition, construction, installing, and equipping of an office complex located at 840 First Street, N.E., and designated as square 675, lot 848 (Record lot 297), consisting of:

"(A) An approximately 244,000 square foot office building;

"(B) Parking of approximately 200 spaces; and

"(C) Other auxiliary improvements.

"(3) "Qualified employee " means an individual subject to the District's personal income tax who is not currently employed in a facility owned or operated by CareFirst and is hired to fill a position of indefinite duration consisting of a minimum of 35 hours per week for

not less than 50 weeks per year, which position is created by CareFirst.

"(4) "Tax year" means any calendar year or portion of a calendar year in which District income taxes are due and payable.

"(b)(1) Subject to the limitations of paragraphs (2), (3), (4), and (5) of this section, for 5 consecutive tax years beginning with the first tax year during which the CareFirst Project is occupied, for each qualified employee hired by CareFirst that exceeds the number of employees employed by CareFirst during the immediately preceding tax year, commencing after December 31, 2002, and that otherwise meets the requirements of this section, CareFirst shall be allowed a credit against the tax imposed by § 47-1807.02 not to exceed \$1,000 for each qualified employee hired. Notwithstanding the foregoing, a credit shall not be allowed for qualified employees hired after December 31, 2005.

"(2) The aggregate amount of credits earned by CareFirst under this subsection shall be determined as of the last calendar day of the first year in which the credit is sought. The maximum annual credit allowed under this section shall not exceed:

"(A) Fifty percent of the wages paid to qualified employees during the tax year in which the credit is claimed pursuant to paragraph (6) of this subsection; or

"(B) The total of franchise, personal property, and income taxes imposed on the CareFirst during the tax year in which the credit is sought.

"(3) Allocations of credits shall:

"(A) Be made over 60 consecutive months, commencing with the respective month in which each qualified employee is hired;

"(B) Be allowed ratably for each qualified employee in accordance with the number of months the qualified employee is employed at the CareFirst Project during the tax year for which the credit is sought; and

"(C) Terminate the earlier of:

"(i) The 5th anniversary of the date of its commencement;

"(ii) The date that CareFirst fails to meet the respective annual certification of compliance requirements of subsection (g) of this section; or

"(iii) The date of the filing of a petition in bankruptcy in connection with CareFirst's business.

"(4) A credit that is allowed but unusable for the tax year in which it accrues may be carried forward for 5 tax years, but no credits shall be carried back.

"(5) A credit shall not be allowed if:

"(A) CareFirst pays the qualified employee less than the greater of the legal minimum wage and the wage that CareFirst pays other employees in similar jobs;

"(B) CareFirst accords the qualified employee less benefits or rights than it accords other employees in similar jobs; or

"(C) The qualified employee:

"(i) Is a member of the board of directors of CareFirst;
"(ii) Directly or indirectly owns 5% or more of its stock; or
"(iii) Is related to a member of the board of directors or owner of 5% or more of its stock as a spouse or as a relative who is a dependent as defined in section 152 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 43; 26 U.S.C. § 152), without regard to income.

"(6) The credit shall be claimed by attaching a worksheet and affidavit to the taxpayer's annual return. The affidavit shall set forth the basis for and the amount of the credit claimed and the amount of the credit allowed for each preceding year that the credit was claimed and shall be signed under penalty of perjury. The affidavit shall be in the following form:

""After reasonable investigation, the undersigned has determined that CareFirst:

"(1) Has met and intends to continue to meet the requirements applicable to its receipt of tax benefits of the type and in the amount requested;

"(2) Is in compliance with terms of all public benefit agreements entered into with the District, including, but not limited to, the First Source Employment Agreement with the District of Columbia Department of Employment Services and the Memorandum of Understanding with the District of Columbia Office of Local Business Development;

"(3) Is not now receiving and does not now have pending any other application for abatement of real property tax liability or an allowance of tax credits in connection with a single property, qualified employee, or financial contribution made pursuant to any other provision of District law;

"(4) Is not delinquent in the payment of taxes, fees, or other indebtedness to the District; and

"(5) Is not in violation of the applicable laws and regulations of the District.""

"(c) Gross receipts from the sales of tangible personal property to be incorporated or consumed in the course of construction of the CareFirst Project shall be exempt from the tax imposed by Chapter 20. The amount of all taxes, fees, and deposits exempted, abated, or waived under this subsection shall not exceed \$ 2 million."

Sec. 3. Inclusion in the budget and financial plan.

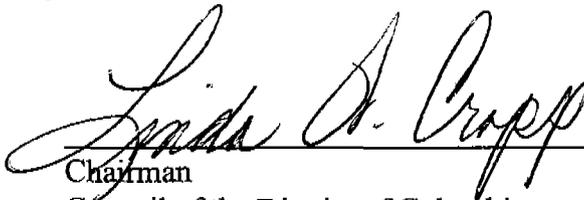
This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), 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.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 3, 2005

AN ACT
D.C. ACT 15-651

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

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To amend Chapter 10 of Title 47 of the District of Columbia Code to change the provisions authorizing the forgiveness of and exemption from real property taxation for Lots 826 and 831 in Square 491.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this Act may be cited as the "Freedom Forum, Inc. Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004".

Sec. 2. (a) Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the section designation "47-1053. Payments in lieu of taxes; lots 826 and 831, square 491." at the end.

(b) A new section 47-1064 is added to read as follows:

"§ 47-1064. Payments in lieu of taxes; lots 826 and 831, square 491.

"(a) Subject to subsection (b) of this section, the real properties located in the District of Columbia described as lots 826 and 831 in square 491, together with improvements thereon, owned by The Freedom Forum, Inc., a nonprofit corporation exempt from federal income taxation, or a wholly owned entity thereof disregarded for purposes of federal income taxation ("properties"), are hereby exempt from real property taxation as of December 21, 2000. Recordation taxes assessed against The Freedom Forum, Inc., or its disregarded entity, as a result of the transfer of the properties, shall be forgiven and any amounts paid therefor shall be refunded to the payor. The Freedom Forum, Inc., and its disregarded entity, shall be exempt from transfer and recordation taxes arising from the transfer of any portion of the properties.

"(b)(1) Upon issuance of a final certificate of occupancy to The Freedom Forum, Inc., or its disregarded entity, to operate the Newseum on the properties, the properties, or portion thereof, shall be subject to a payment in lieu of taxes at the election of the District of Columbia in accordance with the provisions of that certain Land Use Restriction Agreement dated as of December 21, 2000 and recorded among the land records of the District of Columbia at the Recorder of Deeds ("Land Records") as Document Number 2000117290, as amended by that

New
§ 47-1064

certain First Amendment to Land Use Restriction Agreement dated as of June 17, 2002 and recorded among the Land Records as Document Number 2002071121 (as amended, "Land Use Restriction Agreement"). The payment shall be treated in the same manner as a tax under § 47-1330(2) and shall be subject to collection under Chapter 13A.

"(2) Upon transfer of any portion of the properties to an unrelated person, the portion of the properties so transferred shall be subject to real property taxation in accordance with the provisions of the Land Use Restriction Agreement.

"(3) The foregoing provisions notwithstanding, if the Freedom Forum, Inc., or its disregarded entity, enters into a joint venture with a third party for purposes of residential development on the properties, or a portion thereof, the portion of the properties on which the residential development occurs shall become subject to real property taxation upon the earlier of:

"(A) The date of issuance of a final certificate of occupancy to The Freedom Forum, Inc., or its disregarded entity, to operate the Newseum on the properties; or

"(B) The date of issuance of the first final certificate of occupancy for the residential development."

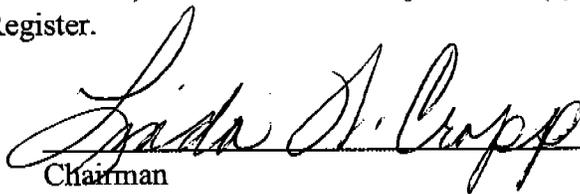
Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by § 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)).

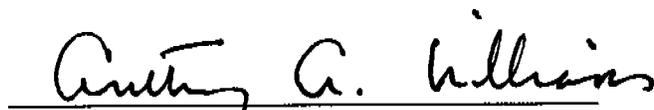
Sec. 4. Effective date.

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), 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.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 29, 2004

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To amend section 47-1054 of the District of Columbia Official Code to provide equitable real property tax relief to certain property owned by Capitol Hill Community Garden Land Trust, a tax-exempt organization.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Kings Court Community Garden Equitable Real Property Tax Relief Act of 2004".

Sec. 2. Section 47-1054 of the District of Columbia Official Code is amended to read as follows:

Amend
§ 47-1054

"(a) The Council of the District of Columbia orders that all real property taxes, interest, penalties, fees, and other related charges assessed against real property located at square 1060, lot 30, for the period of tax years 1997 to 2003, be forgiven, and that any payment already made for this period, as of effective date of the Kings Court Community Garden Equitable Real Property Tax Relief Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-102), be refunded; provided, that this property is owned and used by the Capitol Hill Community Garden Land Trust as a community garden, which is available for use by the public, and not used for commercial purposes.

"(b) The one-time transfer of the property specified in subsection (a) of this section to the Capitol Hill Community Garden Land Trust shall not be subject to the recordation and transfer taxes and fees under Chapters 9 or 14.

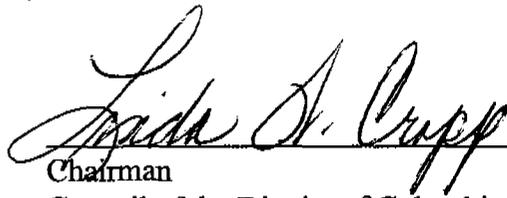
"(c) Upon the transfer of the property described in subsection (a) of this section to the Capitol Hill Community Garden Land Trust, the property shall be exempt from all taxation so long as the same is used in carrying out the public purposes and activities of the Capitol Hill Community Garden Land Trust, and not used for commercial purposes and subject to the provisions of §§ 47-1005, 47-1007 and 47-1009."

Sec. 3. Fiscal impact statement.

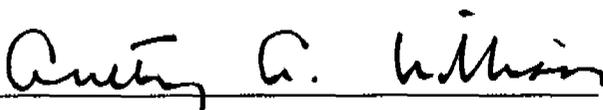
The Council adopts the fiscal impact statement contained in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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), 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.



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To amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain property owned by the Department of the District of Columbia Veterans of Foreign Wars and to provide equitable real property tax relief to the organization.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Veterans of Foreign Wars Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004".

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-1063. Property owned by the Department of the District of Columbia Veterans of Foreign Wars; lot 0040, square 5167."

(b) A new section 47-1063 is added to read as follows:

"§ 47-1063. Department of the District of Columbia Veterans of Foreign Wars; lot 0040, square 5167.

"Property situated in square 5167, located at 1601 Kenilworth Avenue, N.E., described as lot 0040, owned, occupied, and used by the Department of the District of Columbia Veterans of Foreign Wars, is hereby exempt from all taxation so long as this same property continues to be owned and occupied by the Department of the District of Columbia Veterans of Foreign Wars, and not used for commercial purposes, providing for exemption of certain real properties."

Sec. 3. The Council of the District of Columbia orders that all real property taxes, interest, penalties, fees, and other related charges assessed against the property owned by the Department of the District of Columbia Veterans of Foreign Wars for the period of May 1, 2002, until the effective date of this act, on real property located at 1601 Kenilworth Avenue, N.E., Washington, D.C., lot 0040 in square 5167, be forgiven.

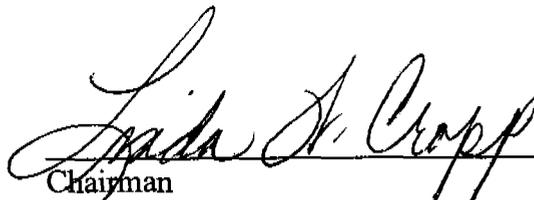
New
§ 47-1063

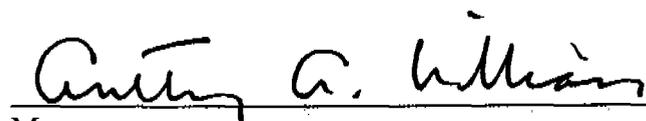
Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), 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.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
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To amend Title 47 of the District of Columbia Official Code to provide an exemption up to \$800,000 over a 60-month period from sales and use taxes on the sales of tangible personal property related to the renovation and operation of the Lincoln Square Theater.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Lincoln Square Theater Sales and Use Tax Exemption Act of 2004".

Sec. 2. Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new chapter designation "Chapter 46. Special Tax Incentives."

(b) A new chapter 46 is added to read as follows:

"Chapter 46. Special Tax Incentives.

"Sec.

"47-4601. Lincoln Square Theater sales and use tax exemption.

"§ 47-4601. Lincoln Square Theater sales and use tax exemption.

"Beginning June 1, 2003, and ending May 31, 2008, sales of tangible personal property, not to exceed the aggregate amount of \$800,000, to be incorporated into or consumed in the renovation of the Lincoln Square Theater shall be exempt from taxation under Chapter 20 and Chapter 22. For the purposes of this section, the term "Lincoln Square Theater" means an 8-screen motion picture theater consisting of approximately 1,100 seats and comprising approximately 40,000 square feet, located in square 374, lot 22, in the District of Columbia and owned and operated by Silver Cinemas Acquisition Company."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement contained in the committee report 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)).

New
§ 47-4601

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), 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.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
December 29, 2004

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

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To amend, on a emergency basis, the Water Pollution Control Act of 1984 to provide that revenues from fishing and hunting licensing schemes shall not be used for purposes other than the administration of the District's Fisheries and Wildlife Division in its role of protecting and managing aquatic life.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Water Pollution Control Emergency Amendment Act of 2004".

Sec. 2. Section 4(b)(3) of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.03(b)(3)), is amended to read as follows:

Note,
§ 8-103.03

"(3) Revenues from licensing regulatory schemes under this section shall not be diverted for purposes other than the administration and management of the District's fisheries and wildlife resources. License fees paid by anglers and other users of these resources shall not be used for purposes other than the administration of the District's Fisheries and Wildlife Division."

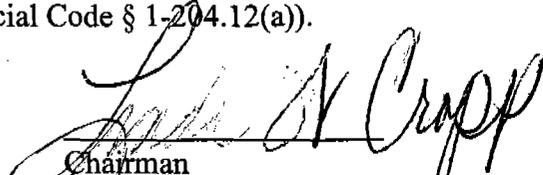
Sec. 3. Fiscal impact statement.

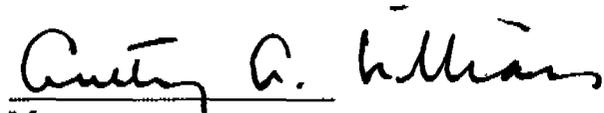
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

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
December 29, 2004

AN ACT

D.C. ACT 15-656

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

To order, on an emergency basis, the closing of a portion of the alley system in Square 317, bounded by 11th, K, 12th and I Streets in Northwest Washington, D.C. in Ward 2.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Public Alley in Square 317, S.O. 04-7832, Emergency Act of 2004".

Sec. 2. Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council of the District of Columbia finds the portion of a public alley in Square 317, as shown on the Surveyor's plat filed under S.O. 04-7832, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

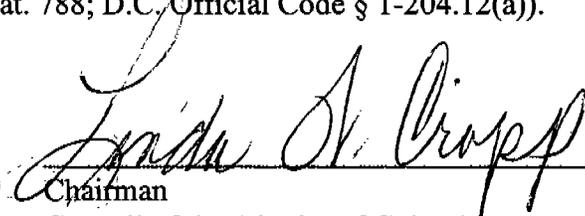
Sec. 3. The alley closing legislation will facilitate the development of approximately 1/2 of the square as an office building. This development will have a positive fiscal impact on the District of Columbia through the generation of substantial new property tax revenues. The development will also create a significant number of jobs during construction.

Sec. 4. The closure of this public alley is contingent upon the satisfaction of all conditions by District agencies and affected public utilities set forth in the official file of S.O. 04-7832, including the filing, in the Recorder of Deeds Division of the Office of Tax and Revenue, of a covenant between the District of Columbia and the owner of Lots 16, 17, 18, 19, 800, 801, 802, 803, 804, 806, 807, 823, 829, 830, 831, 832, and 833 in Square 317.

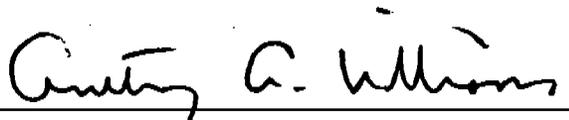
Sec. 5. The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. The Secretary to the Council shall transmit a copy of this act, upon its effectiveness, each to the District of Columbia Surveyor of the District of Columbia and the District of Columbia Recorder of Deeds.

Sec. 7. This act shall take effect upon its enactment (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
December 28, 2004

AN ACT
D.C. ACT 15-657

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

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To establish, on an emergency basis, the Department of Youth Rehabilitation Services and provide for its composition, staff, powers, and duties; and to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to add the Department of Youth Rehabilitation Services to the list of subordinate agencies.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Youth Rehabilitation Services Establishment Emergency Act of 2004".

TITLE I.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Aftercare services" means programs and services designed to provide care, supervision, and control over children released from facilities.

(2) "Committed" means the removal of a youth from his or her home as a result of an order of adjudication or an order of disposition and placement in the care and custody of the Department of Youth Rehabilitation Services.

(3) "Contracted provider" means any agency, organization, corporation, association, partnership, or individual, either for profit or not for profit, who agrees in writing to provide specific services or organizational supports to youth in the Department's care and custody.

(4) "Conviction" means a judicial finding, jury verdict, or final administrative order, including a finding of guilt, a plea of *nolo contendere*, or a plea of guilty to a criminal charge enumerated in section 105(g), or a finding that a child who is the subject of a report of child abuse has been abused by the employee or prospective employee.

(5)(A) "Custody" means the legal status created by a Family Court order which vests in the Department the responsibility for the custody of a minor, including:

(i) Physical custody and the determination of where and with whom the minor shall live;

and (ii) The right and duty to protect, train, and discipline the minor;

(iii) The responsibility to provide the minor with food, shelter, education, and ordinary medical care.

(B) A Family Court order of "legal custody" is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(6) "Department" means the Department of Youth Rehabilitation Services.

(7) "Detained" means the temporary, secure custody of a child in facilities designated by the Family Court and placed in the care of the Department, pending a final disposition of a petition and following a hearing in accordance with D.C. Official Code § 16-2312.

(8) "Facilities" means any youth residential facility, group home, foster home, shelter, secure residential or institutional placement owned, operated, or under contract with the Department, excluding residential treatment facilities and accredited hospitals.

(9) "Family Court" means the Family Court of the Superior Court of the District of Columbia.

(10) "Person in need of supervision" or "PINS" means a "child in need of supervision" as that term is defined by D.C. Official Code § 16-2301(8).

(11) "Rehabilitative services" means services designed to assist youth in acquiring, retaining, and improving their socialization, behavioral, and generic competency skills necessary to reintegrate into their home and community-based settings.

(12) "Youth" means a child as that term is defined by D.C. Official Code § 16-2301. The terms "juvenile," "child," and "resident" appearing in this title are used interchangeably.

(13) "Youth residential facility" means a residential placement providing adult supervision and care for one or more children who are not related by blood, marriage, guardianship, or adoption (including both final and non-final adoptive placements) to any of the facility's adult caregivers and who were found to be in need of a specialized living arrangement as the result of a detention or shelter care hearing held pursuant to D.C. Official Code § 16-2312 or a dispositional hearing held pursuant to D.C. Official Code § 16-2317.

Sec. 102. Establishment and purposes of the Department of Youth Rehabilitation Services.

(a) Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Department of Youth Rehabilitation Services is established as a separate Cabinet-level agency, subordinate to the Mayor, within the executive branch of the government of the District of Columbia. The Department shall lead the reform of the District's juvenile justice system by coordinating the collaborative efforts of government agencies, contracted providers, labor, and community

leaders to:

- (1) Improve the security, supervision, and rehabilitation services provided to committed and detained juvenile offenders and Persons in Need of Supervision ("PINS");
 - (2) Develop and maintain a holistic, family-oriented approach to the provision of youth services that emphasizes youth and parental responsibility so as to reduce juvenile crime, delinquency, and recidivism; and
 - (3) Develop and maintain state of the art service programs, delivery systems, and facilities that will transform the District's juvenile justice system into a national model.
- (b) The Department shall be headed by a Director, who shall report to the Mayor. The Director shall be appointed by the Mayor with the advice and consent of the Council, pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).
- (c) The Director shall have a minimum education of a Masters Degree in Criminal Justice, Social Work, or some related field, or shall possess equivalent work-related experience in the management of juvenile justice programs.
- (d) The Director shall have authority over the Department, its functions, and personnel, including the power to re-delegate to employees authority as, in the judgment of the Director, is warranted in the interests of efficiency and sound administration.
- (e) The Director shall have authority to organize and reorganize the personnel and property transferred herein within any organizational unit of the Department, including creating offices within the Department, as necessary, and exercising any other powers necessary and appropriate to implement the provisions of this title.
- (f) The Director shall have authority to implement an aggressive District-wide program of reform within the juvenile justice system that leads to a system that can serve as a nationwide model.

Sec. 103. Organization.

- (a) The Department shall have sufficient staff, supervisory personnel, and resources to accomplish the purposes of this title. There is hereby established in the Department:
- (1) The Office of the Director, which shall be responsible for all administrative activities, such as human resources, technology and information services, facilities management and transportation, contracting and procurement, budget and financial services, with subordinate staff offices responsible for overall management responsibility of the office;
 - (2) The Division of Secure Programs, whose Deputy Director shall be responsible for operations at the Oak Hill Youth Center, the Youth Services Center, and any other Department secure facility;
 - (3) The Division of Court and Community Programs, whose Deputy Director shall be responsible for aftercare services for committed youth and prevention programs;
 - (4) The Division of Performance Management, whose Deputy Director shall be responsible for licensure, regulation, technical assistance, training, quality assurance, quality

improvement, risk management, program evaluation, data collection, contract monitoring, policy formulation, legislative affairs, and monitoring and reporting on compliance with standards, policies, court orders, laws, rules, and regulations;

(5) The Office of Internal Integrity, which shall be responsible for the swift and competent internal investigations into allegations and indications of unprofessional and unlawful conduct by employees or contractors of the Department;

(6) The Office of the General Counsel shall be responsible for reviewing legal matters pertaining to the Department and its programs, analyzing existing or proposed federal or local legislation and rules, managing the development of new legislation and rules, and coordinating legal services to the Department, and shall be headed by a General Counsel, who shall be in the Senior Executive Attorney Service of the Legal Service as an at-will employee under the direction and control of the Attorney General for the District of Columbia.

(b) Notwithstanding the proposed organization established in subsection (a) of this section, the Director of the Department shall have the authority, pursuant to section 102(e), to organize and reorganize the organizational structure set forth in this section.

Sec. 104. Duties.

The primary duties of the offices of the Department are to plan, program, operate, manage, control, and maintain a juvenile justice system of care, rehabilitative service delivery, and security that meets the treatment needs of youth within the juvenile justice system and that is in accordance with national juvenile justice industry standards and best practices. These duties include:

(1) Providing services for committed and detained youth and PINS that balance the need for rehabilitation and holding youth accountable for their actions in the context of public safety;

(2) Facilitating and enhancing intra-District coordination of services and supports for youth in the juvenile justice system;

(3) Establishing and adopting best practices standards for the provision of residential, restorative, and rehabilitative services to youth in the juvenile justice system consistent with the standards of the American Correctional Association or those of another nationally accepted accrediting body;

(4) Employing a cadre of juvenile justice professionals who are highly skilled and experienced with the principles, goals, and the latest advancements of juvenile rehabilitation and treatment provision;

(5) Establishing through contracts, provider agreements, human care agreements, grants, memoranda of agreement or understanding, or other binding agreements a system of secure and community-based facilities and rehabilitative services with governmental bodies, public and private agencies, institutions, and organizations, for youth that will provide intervention, individualized assessments, continuum of services, safety, and security;

(6) Establishing a system that constantly reviews a youth's individual strengths,

needs, and rehabilitative progress and ensures placement within a continuum of least restrictive settings within secure facilities and the community;

(7) Assessing the risks and needs of youth, and determining and providing the services needed for treatment for substance abuse and other services;

(8) Developing and maintaining a system with other governmental and private agencies to identify, locate, and retrieve youth who are under the care, custody, or supervision of the Department, who have absconded from an assigned secure governmental facility, or community shelter home, group home, residential facility, or foster care placement;

(9) Developing and maintaining state of the art systems to monitor accountability and to enhance performance for all Department programs, services, and facilities;

(10) Developing and maintaining an ongoing training program for employees that ensures continuous development of expertise in juvenile justice service delivery;

(11) Taking a leadership role in the provision of training and technical assistance to non-governmental juvenile justice service providers that fosters the development of high-quality, comprehensive, cost-effective, and culturally competent delinquency prevention and juvenile rehabilitative services for the youth and their families;

(12) Developing and maintaining a capital improvement, licensing, and regulating program that ensures governmental and private institutions maintain up-to-date residential facilities, group homes, and shelter facilities to serve the safety, the security, and the rehabilitative needs of youth in the juvenile justice system; and

(13) Enforcing all laws, rules, regulations, court orders, policies, and procedures necessary and appropriate to accomplish the duties of the Department.

Sec. 105. Special authorities of the Department.

(a) When the Department has physical custody of a youth pursuant to D.C. Official Code § 16-2320, it may:

(1) Authorize a medical evaluation, emergency medical, surgical, or dental treatment, a psychiatric evaluation, or emergency outpatient psychiatric treatment, when reasonable efforts to secure the consent of the youth's parents or legal guardian have been made, but a parent or legal guardian cannot be consulted; and

(2) Authorize non-emergency, routine outpatient medical, dental, and psychiatric treatment or an autopsy, when reasonable efforts to consult the parent or legal guardian have been made, but a parent or legal guardian cannot be consulted.

(b) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities and in doing so it may require:

(1) Random searches of all buildings and grounds for contraband;

(2) Random and probable cause searches of persons and personal property entering or on the grounds for contraband;

(3) Use of metal detectors and visual inspections, dog sniffers, or other means to

inspect any bag, luggage, or container being carried into or on the grounds for contraband; and

(4) Seizure, confiscation, and retention of contraband as a result of a search or inspection conducted pursuant to paragraphs (1) through (3) of this subsection.

(c) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it shall require the testing of all prospective and existing Department staff and contractual employees or other applicable personnel for drug and alcohol use, in accordance with section 2022 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-620.22).

(d) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it shall test youth for the presence of substances, which may pose risks to the health and safety of youth or others.

(e) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it may require all prospective and existing employees or staff assigned to any Department facility or any provider of services to youth in any Department- contracted facility, group home, or shelter to provide National Crime Information Center ("NCIC") criminal background checks in accordance with Title II of the Child and Youth, Safety and Health Omnibus Emergency Amendment Act of 2004, effective November 30, 2004 (D.C. Act 15-630).

(f) The Department shall protect the safety, security, discipline, and order of Department facilities, residential facilities, programs, and services, and in doing so it may require all prospective and existing employees or staff at any Department-owned or contract facility, or program that provides services to youth in the juvenile justice system, be subject to a child protection registry check in the District of Columbia and their current and prior states of residence.

(g) The Department may:

(1) Prohibit the hiring of or require the termination of persons seeking employment or employed by the Department, or providers of services either under contract, grant, or agreement, or persons who will provide or do provide direct services or who have access to youth in the juvenile justice system, who have been convicted by a court of competent jurisdiction of:

(A) Child abuse or child neglect;

(B) Rape or sexual assault;

(C) Homicide or felony assault; or

(D) Any other crime, as defined by rules issued by the Mayor;

(2) Require all Department facilities or programs under contract, grant, or agreement to obtain written approval of the Department prior to employing any person who has been convicted or has served a sentence in the past 10 years for any of the following offenses or their equivalents:

(A) Fraud;

- (B) Burglary;
- (C) Drug-related crimes; or
- (D) Any other crime, as defined by rules issued by the Mayor; and

(3) Prohibit the assignment of persons employed by the Department, or providers of services, either under contract, grant, or agreement, that have access to youth into positions that may place them in contact with youth if that person is alleged to be a perpetrator of abuse or neglect in a currently pending child abuse or neglect investigation.

(h) The Department may take any other actions necessary to promote the safety and well-being of the youth in the Department's custody.

(i) A criminal or civil conviction for any of the charges listed within subsection (g)(1) of this section or identification as a perpetrator of abuse or neglect as determined by the investigation conducted pursuant to subsection (f) of this section in this or any jurisdiction shall constitute cause for termination.

(j) Except as expressly provided by this title, all information obtained pursuant to this section shall be considered confidential and only released to appropriate officials, as determined by the Director of the Department.

Sec. 106. Confidentiality of youth records.

(a) Records pertaining to youth in the custody of the Department or contract providers shall be privileged and confidential and shall only be released pursuant to D.C. Official Code § 16-2332.

(b) Notwithstanding the confidentiality requirements of this section, the Mayor may establish rules for the disclosure of electronic Department data to other District government agencies statutorily charged with the care, treatment, and rehabilitation of youth in the District's custody for purposes of coordination care, treatment, and rehabilitation services for youth and Department tracking and trending reports; provided, that the Department data is maintained, transmitted, and stored in a manner to protect the security and privacy of the youth identified and to prevent the disclosure of any of the data or information to any individual, entity, or agency not designated in this subsection.

Sec. 107. Rules; authority to execute contracts and grants.

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

(b) The Mayor may execute contracts, grants, and other legally binding documents to implement the provisions of this title.

Sec. 108. Transfers.

(a) All real or personal property, leased or assigned to the Department of Human Services on behalf of the Youth Services Administration, positions, assets, records, and

obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions and operations of the Department of Human Services as set forth in, and utilized to carry out, section III (S) and III (W) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to the Youth Services Administration are hereby transferred to the Department.

(b) All of the authority and functions of the Department of Human Services as set forth in section III (S) and III (W) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to the Youth Services Administration are hereby transferred to the Department.

(c) All real and personal property, Career and Excepted Service, Management Supervisory Service, trainee positions, assets, records, obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration of the Youth Services Administration shall become the property of the Department.

(d) All real and personal property, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the "Compact Administrator" of the Interstate Compact on the Placement of Children, as authorized by the Interstate Compact on the Placement of Children Authorization Act of 1989, effective September 20, 1989 (D.C. Law 8-30; D.C. Official Code § 4-1422), shall become the property of the Department.

(e) All positions, real and personal property, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the Youth Services Administration of the Department of Human Services in operating and regulating secure and residential facilities, juvenile justice services, programs, and supports, shall be transferred to the Department.

(f) The Department shall recognize and bargain with collective bargaining representatives that have been duly certified by the Public Employees Relations Board and shall assume and be bound by all existing collective bargaining agreements entered into by the Youth Services Administration of the Department of Human Services, if those agreements have been approved by the Council, unless Council approval is not required by law, and, during a control year as defined in D.C. Official Code § 47-393(4), the District of Columbia Financial Responsibility and Management Assistance Authority.

(g) Every employee of the Youth Services Administration shall be transferred to the Department. An employee transferred to the Department shall be transferred in the same classification he or she held at the Department of Human Services, Youth Services Administration, or other department, at the time of the transfer. Subject to the District's authority to convert them to the Management Supervisory Service and the Legal Service consistent with 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.*),

transferred employees shall retain all rights and privileges related to their individual pay and benefits, including retirement status, so long as the employee is continuously employed by the Department or the District government, including any applicable rights and privileges provided for in section 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; D.C. Official Code § 44-906).

(h) The following rules and regulations pertaining to the licensing, oversight, and regulation of residential placement facilities for detained, delinquent youth and PINS shall remain in full force and effect unless and until repealed or superseded by action of the Department:

(1) Chapter 62 of Title 29 of the District of Columbia Municipal Regulations (Licensing of Youth Shelters, Runaway Shelters, Emergency Care Facilities and Youth Group Homes); provided, that the Department shall perform all functions that Chapter 62 vests in the Department of Human Services, Youth Services Administration, and as the contracting entity shall perform all services, licensure, oversight and investigations placement, and monitoring functions previously performed by the Department of Human Services, Youth Services Administration, pursuant to the authority granted by the Youth Residential Facilities Licensure Act of 1986, effective August 13, 1986 (D.C. Law 6-139; D.C. Official Code § 7-2101 *et seq.*), except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(2) Chapter 63 of Title 29 of the District of Columbia Municipal Regulations (Licensing of Independent Living program for Adolescents and Young Adults); provided, that the Department shall perform all functions that Chapter 63 vests in the Department of Human Services, Youth Services Administration, and as the contracting entity shall perform all services, licensure, oversight and investigations placement, and monitoring functions previously performed by the Department of Human Services, Youth Services Administration, except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(3) Chapter 12 of Title 29 of the District of Columbia Municipal Regulations (Community Placement of Juvenile Offenders); provided, that the Department shall perform all functions that Chapter 12 vests in the Department of Human Services, Youth Services Administration, except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

Sec. 109. Delegation and redelegation of authority.

The Department is the successor in interest to all committed and detained youth and Person in Need of Supervision related authority delegated to the Department of Human Services, and the Director of the Department is authorized to act, either personally or through a designated representative, as a member of any committees, commissions, boards, or other bodies that include as a member the Director of the Department of Human Services.

Sec. 110. Repealer.

All organizational orders and parts of orders in conflict with any of the provisions of this act are hereby repealed, except that any regulations adopted or promulgated by virtue of the authority granted by these orders shall remain in force until properly revised, amended, or repealed.

TITLE II.

Sec. 201. Section 301(q) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(17)), is amended as follows:

Amend
§ 1-603.01

(a) Paragraph (51) is amended by striking the word "and" at the end and inserting a semicolon in its place.

(b) Paragraph (52) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(c) A new paragraph (53) is added to read as follows:

"(53) Department of Youth Rehabilitation Services."

TITLE III.

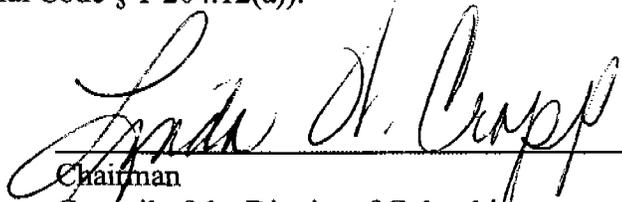
Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report of the Department of Youth Rehabilitation Services Establishment Act of 2004, passed on 1st reading on December 7, 2004 (Engrossed version of Bill 15-1000), 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
December 29, 2004

AN ACT
D.C. ACT 15-658

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

*Codification
District of
Columbia
Official Code*
2001 Edition
2005 Winter
Supp.
West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the District of Columbia Election Code of 1955 to bring the District of Columbia into compliance with the Help America Vote Act of 2002.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Help America Vote Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code §1-1001.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-1001.02) is amended by adding a new paragraph (22) to read as follows:

Note,
§ 1-1001.02

"(22) The term "voting system" means:

"(A) The combination of mechanical, electromechanical, or electronic equipment, including the software, firmware, and documentation required to program, control, and support the equipment used to:

- "(i) Define ballots;
- "(ii) Cast and count votes;
- "(iii) Report or display elections results; and
- "(iv) Maintain and produce a permanent record; and

"(B) The practices and documentation used to:

- "(i) Identify system components and versions of components;
- "(ii) Test the system during its development and maintenance;
- "(iii) Maintain records of system errors and defects;
- "(iv) Determine necessary system changes after the initial qualification of the system; and

"(v) Provide voters with notices, instructions, forms, paper ballots, or other materials."

(b) Section 5 (D.C. Official Code § 1-1001.05) is amended as follows:

Note,
§ 1-1001.05

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

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

"(a)(1) Accurately maintain a uniform, interactive computerized voter registration list which shall serve as the official voter registration list for all elections in the District, and shall contain the name, registration information, and a unique identifier assigned for every registered voter in the District. The voter registration list shall be administered pursuant to the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat 1666; 42 U.S.C § 15301 *et*

seq.) ("Help America Vote Act of 2002") and pertinent federal and local law, and shall be coordinated with other District agency databases;"

(B) Paragraph (10) is amended to read as follows:

"(10) Provide information regarding procedures for voter registration and absentee ballots to absent uniformed services voters and overseas voters in federal elections, accept valid voter registration applications, absentee ballot applications, and absentee ballots including write-in ballots from all of those voters, and comply with the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1873ff *et seq.*)".

(C) Paragraph (13) is repealed.

(2) New subsections (i) and (j) are added to read as follows:

"(i) The Board shall cause the following information to be posted at each polling place on the day of each election for federal office:

"(1) A sample version of the ballot that will be used for the election;

"(2) The election and the hours during which polling places will be open;

"(3) Instructions on the proper manner of completing a ballot, including a special ballot;

"(4) Instructions for mail-in registrants and first-time voters under section 303(b) of the Help America Vote Act of 2002;

"(5) General information on voting rights under applicable federal and District laws, including the right to cast a special ballot and instructions to contact the appropriate officials if these rights are alleged to have been violated, and;

"(6) General information on federal and District law regarding prohibitions on acts of voter fraud and misrepresentation.

"(j) Not later than 90 days after the date of each regularly scheduled general election for federal office, the Board shall submit to the Mayor a report, in the format established by the Federal Election Assistance Commission, on the number of absentee ballots sent to absent uniformed services voters and overseas voters for the election and the number of ballots which were returned by those voters to the Board. The report shall be transmitted by the Mayor to the Election Assistance Commission, and shall be made available to the general public."

(c) Section 7 (D.C. Official Code § 1-1001.07) is amended as follows:

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

"(a-1)(1) No application for voter registration may be accepted or processed by the Board unless the application includes:

"(A) The driver's license number of the applicant, or

"(B) The last 4 digits of the social security number of an applicant who has not been issued a current and valid driver's license.

"(2) If an applicant has not been issued a current and valid driver's license or a social security number, the Board shall assign the applicant the unique identifier assigned pursuant to section 5(a)(1)."

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

(A) Paragraph (1) is amended by striking the phrase "Federal Election Commission" and inserting the phrase "Help America Vote Act of 2002" in its place.

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

(i) Add the phrase "shall meet the requirements of the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973 *gg et seq.*) and the Help America Vote Act of 2002," after the phrase "approved by the Board".

Note,
§ 1-1001.07

(ii) Add the word "and" after the phrase "approved by the Board".

(iii) Add a sentence at the end to read as follows: "If an applicant fails to properly complete the registration form, the Board's registrar shall notify the applicant and provide the applicant with an opportunity to complete the form in a timely manner prior to the next election."

(3) Subsection (c)(1) is amended by adding a new subparagraph (K) to read as follows:

"(K) The Board and the Bureau of Motor Vehicle Services shall match information in their respective databases to enable each agency to verify the accuracy of the information on applications for voter registration."

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

"(2A) The Board shall process faxed postcard applications from persons eligible to vote absentee in federal elections in the District of Columbia pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1973ff *et seq.*), which are faxed not later than the 30th day preceding any election."

(5) Subsection (i) is amended by adding a new paragraph (6) to read as follows:

"(6) Each individual who has not previously voted in a federal election in the District and who registers to vote by mail shall present, either at the time of registration, at the polling place, or when voting by mail, a copy of a current and valid government photo identification or a copy of a current utility bill, bank statement, government check, or pay check that shows the name and address of the voter. Individuals who fail to present this identification shall vote by special ballot. This paragraph shall not apply to:

"(A)(i) Individuals whose registration application includes a driver's license number or at least the last 4 digits of the individual's social security number, and matches an existing identification record bearing the same number, name, and date of birth as the application; or

"(ii) Individuals entitled to vote otherwise than in person under federal law."

(d) Section 9 (D.C. Official Code § 1-1001.09) is amended as follows:

(1) A new subsection (d-2) is added to read as follows:

"(d-2) Any individual who votes in a federal election as a result of a court order or other order that extends the time established for closing the polls by a District law in effect 10 days before the date of that election shall vote in that election by casting a special ballot. Any ballot cast under this subsection shall be separated and held apart from other special ballots not affected by the order."

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

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

"(2) Not later than the Tuesday following the election, the Board shall maintain a toll-free telephone service during regular business hours for any person who has voted by a challenged or special ballot to learn the Board's preliminary decision whether to count or reject his or her ballot and the reason for each decision."

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

"(3) If the Board has made a preliminary determination that a challenged ballot shall not be counted, it shall afford the challenged voter an opportunity to contest that determination in a hearing before the Board. The hearings authorized pursuant to this paragraph shall take place not earlier than 8 days and not later than 10 days after that election. The Board

Note,
§ 1-1001.09

shall inform the voter of the date scheduled for the hearing and the manner by which he or she may learn the Board's final decision to count or reject the voter's challenged ballot. The notice shall be in writing and shall be provided to the voter at the time of voting. At the hearing, the voter may appear and testify. The Board shall make a final determination within 2 days after the date of the hearing. The voter may appeal the decision of the Board to the Superior Court of the District of Columbia within 3 days after the date of the Board's decision. The decision of the court shall be final and not appealable."

(4) A new subsection (k) is added to read as follows:

"(k) Each voting system used in an election in the District shall meet or exceed the voting system standards set forth in the Help America Vote Act of 2002. The Board may implement additional standards provided they do not conflict with those set forth in the Help America Vote Act of 2002."

(e) Section 10 (b)(1) (D.C. Official Code § 1-1001.10(b)(1)) is amended by adding the phrase ", except in instances when the time established for closing the polls is extended pursuant to a federal or District court order or any other order." after the phrase "7:00 a.m. to 8:00 p.m."

Note,
§ 1-1001.10

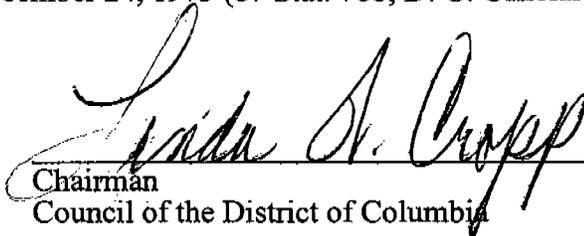
Sec. 3. Applicability.

This act shall apply as of November 10, 2004.

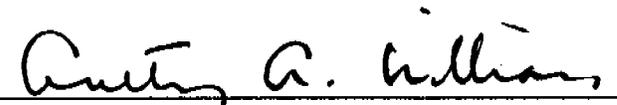
Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for Bill 15-610 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. This act shall take effect following approval by the Mayor (or in 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, beginning on November 10, 2004, 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
December 29, 2004
Codification District of Columbia Official Code, 2001 Edition