

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-396

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on a temporary basis, Chapter 18 of Title 47 of the District of Columbia Official Code to clarify the administration of the long-term, low-income homeowner tax credit.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Low-Income, Long-Term Homeowner's Protection Clarification Temporary Act of 2004".

Sec. 2. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase "47-1806.09f. Tax on residents and nonresidents - Credits - Lower income, long-term homeowner credit - Applicability date; Mayoral certification" and inserting the phrase "47-1806.09f. Tax on residents and nonresidents - Credits - Lower income, long-term homeowner credit - Applicability date - Application and administration" in its place.

(b) Section 47-1806.09f(b) is amended to read as follows:

"(b)(1) An eligible resident shall apply for the tax credit under § 47-1806.09a using an application form to be developed by the Office of Tax and Revenue. For tax year 2003, this form shall be developed by the Chief Financial Officer by April 1, 2004.

(2) An eligible resident who is required to file a District income tax form shall be required to include a copy of his or her tax return with the application for the credit."

Note,
§ 47-1806.09f

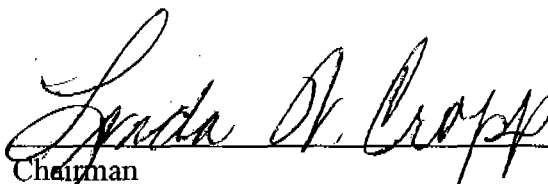
Sec. 3. Fiscal impact statement.

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)).

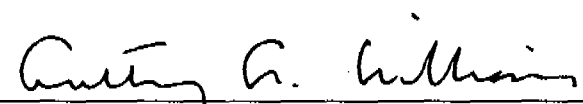
Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
March 18, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR

FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported: February 3, 2004
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Subject/Short Title: "Long-Term, Low-Income Homeowners' Protection Clarification Emergency Act of 2004".

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.	()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue.	()	(x)
d) It will impact intra-District revenue.	()	()
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(x)	
Title IV of the Housing Act of 2001 (D.C. Law 14-114) is already provided for in the FY 2004 budget as adopted by the Mayor and the Council. This clarification will not result in any additional fiscal impact beyond that which we have already budgeted.		

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

1. It will affect an agency and/or agencies in the District.

This legislation will simplify the administration of Title IV of the Housing Act of 2001.

2. Are there performance measures/output for this bill?

3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?

4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?

Title IV of the Housing Act of 2001 (D.C. Law 14-114) is already provided for in the FY 2004 budget as adopted by the Mayor and the Council.

Sources of information: Committee staff, Office of the Deputy Mayor for Planning and Economic Development.

Councilmember: Evans

Staff Person & Tel: Jeff Coudriet, 202/724-8058.

Council Budget Director's Signature:

3627

2/3/04

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-397IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
MARCH 18, 2004Codification
District of
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To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to provide the Office of Employee Appeals with jurisdiction over enforced leave appeals.

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

Sec. 2. 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 603(a) (D.C. Official Code § 1-606.03(a)) is amended by striking the phrase "reduction in grade," and inserting the phrase "reduction in grade, placement on enforced leave," in its place.

Note,
§ 1-606.03

(b) Section 1654(f) (D.C. Official Code § 1-616.54(f)) is amended to read as follows:

"(f) If a determination is made to place the employee on annual leave or leave without pay, the decision letter shall inform him or her of the placement on enforced leave, the date the leave is to commence, his or her right to grieve the action within 10 days of receipt of the written decision letter, and if the enforced leave lasts 10 or more days, his or her right to file an appeal with the Office of Employee Appeals within 30 days of the effective date of the appealed agency action."

Note,
§ 1-616.54

Sec. 3. Fiscal impact statement.

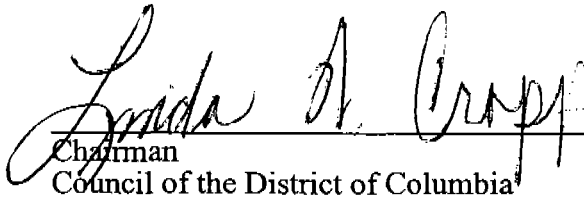
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

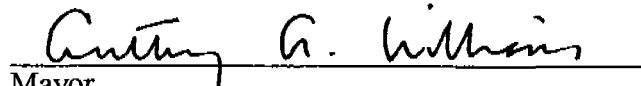
Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of a 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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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
March 18, 2004

ENROLLED-ORIGINAL

AN ACT

D.C. ACT 15-398

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on an emergency basis due to Congressional review, section 47-3701(4) of the District of Columbia Official Code to clarify the estate tax filing threshold of \$1 million applies to decedents whose death occurs on or after January 1, 2003.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Estate and Inheritance Tax Clarification Congressional Review Emergency Act of 2004".

Sec. 2. Section 47-3701(4) of the District of Columbia Official Code is amended as follows:

Note,
§ 47-3701

(a) Subparagraph (B) is amended to read as follows:

“(B) For a decedent whose death occurs on or after January 1, 2002:

“(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;

“(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$675,000; and

“(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$675,000.”.

(b) A new subparagraph (C) is added to read as follows:

“(C) For a decedent whose death occurs on or after January 1, 2003:

“(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;

“(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$345,800; and

“(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$1 million.”.

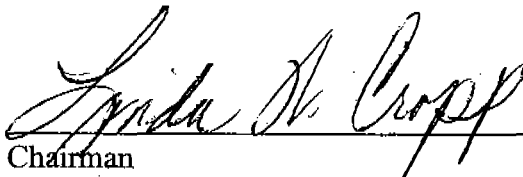
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Sec. 3. Fiscal impact statement.

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)).

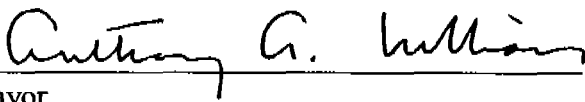
Sec. 4. Effective date.

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

March 18, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR

FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported: December 1, 2003
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Subject/Short Title: "Estate and Inheritance Tax Clarification Emergency Act of 2003".

Part I. Summary of the Fiscal Estimates of the Bill		YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).		()	(x)
a) It will affect local expenditures.		()	(x)
b) It will affect federal expenditures.		()	(x)
c) It will affect private/other expenditures.		()	(x)
d) It will affect intra-District expenditures.		()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).		()	(x)
a) It will impact local revenue.		()	(x)
b) It will impact federal revenue.		()	(x)
c) It will impact private/other revenue.		()	(x)
d) It will impact intra-District revenue.		()	()
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).		(x)	
The proposed emergency legislation is a clarification of existing law, and as such will have no fiscal impact.			

Part II. Other Impact of the Bill		YES	NO
If you check "Yes" for each question, please explain on separate sheet, if necessary.		()	(x)
1. It will affect an agency and/or agencies in the District.		()	(x)
2. Are there performance measures/output for this bill?		()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?		()	(x)
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?		()	(x)
The proposed emergency legislation is a clarification of existing law, and as such will have no fiscal impact.			

Sources of information: Committee staff and Office of Tax and Revenue.	Councilmember: Evans
	Staff Person & Tel: Jeff Coudriet, 202/724-8058.
	Council Budget Director's Signature: <i>Ann R. Evans</i> 11/1/03

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-399

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, An Act To establish a code of law for the District of Columbia to require that an accused person who has been found mentally incompetent to stand trial or to participate in transfer proceedings and is to be released from detention in the criminal or transfer proceeding be remanded by the court to the hospital for detention pending a hearing on a civil commitment petition that was filed prior to the court's determination that the person be released, to provide that a person who is so detained may request a probable cause hearing within 7 days of the remand order, to require that the requested probable cause hearing be held within 24 hours of receipt of the request, and to require that a court stay for a period not to exceed 48 hours execution of an order releasing an accused person who has been found mentally incompetent to stand trial or to participate in transfer proceedings, and for whom a civil commitment petition has not been filed, to afford the appropriate authority an opportunity to initiate proceedings for the person's emergency hospitalization under Chapter 5 of Title 21 of the District of Columbia Official Code.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Prevention of Premature Release of Mentally Incompetent Defendants Congressional Review Emergency Amendment Act of 2004".

Sec. 2. Section 927 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1340; D.C. Official Code § 24-501), is amended by adding a new subsection (a-1) to read as follows:

*Note,
§ 24-501*

"(a-1)(1) If the court determines after a hearing, or pursuant to a report of the superintendent of the hospital to which neither party objects, that the accused person is mentally incompetent to stand trial or to participate in transfer proceedings, and not likely to regain such competence in the reasonable future, and, if after a petition has been filed pursuant to D.C. Official Code § 21-541, the court further determines that the person shall be released from further detention in the criminal or transfer proceeding, the court shall remand the person to the

ENROLLED ORIGINAL

hospital and the hospital may detain the person pending a hearing on the petition conducted pursuant to D.C. Official Code § 21-542. Within 7 days of the remand order, a person so detained may request a probable cause hearing before the Family Court of the Superior Court of the District of Columbia under D.C. Official Code § 21-525 on the person's continued hospitalization, in which case a hearing shall be held within 24 hours after the receipt of the request.

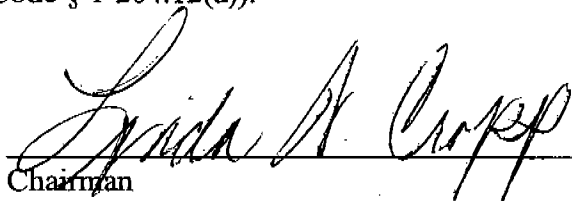
“(2) If the court determines that the accused person shall be released from further detention in the criminal or transfer proceeding, but a petition has not been filed pursuant to D.C. Official Code § 21-541, the court may stay the person's release for a period not to exceed 48 hours and remand the person to the hospital for the period of the stay so that the superintendent of the hospital may have an opportunity to initiate proceedings for the person's hospitalization under subchapter III of Chapter 5 of Title 21 of the District of Columbia Official Code.”

Sec. 3. Fiscal impact statement.

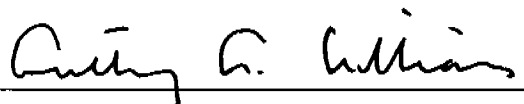
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 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

March 18, 2004
Codification District of Columbia Official Code, 2001 Edition

**COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR
FISCAL IMPACT STATEMENT**

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported: 12/17/02
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Subject/Short Title: "Prevention of Premature Release of Mentally Incompetent Defendants Emergency Amendment Act of 2002"

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	(X)
b) It will affect federal expenditures.	()	(X)
c) It will affect private/other expenditures.	()	(X)
d) It will affect intra-District expenditures.	()	(X)
It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X)
a) It will impact local revenue.	()	(X)
b) It will impact federal revenue.	()	(X)
c) It will impact private/other revenue.	()	(X)
d) It will impact intra-District revenue.	()	(X)
The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	()	(X)
Explanation: This functions is already performed by the Department of Mental Health.		

Part II. Other Impact of the Bill

you check "Yes" for each question, please explain on separate sheet, if necessary.	YES	NO
1. It will affect an agency and/or agencies in the District. Department of Mental Health	(X)	()
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	()	(X)
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	(X)	()

Sources of information:

Department of Mental Health

Councilmember: Kathy Patterson

Staff Person & Tel: Renee McPhatter at 724-8062

Council Budget Director's Signature: *[Signature]*
12/17/02

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-400

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004

Codification
District of
Columbia
Official Code

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the Retail Electric Competition and Consumer Protection Act of 1999 to allow the Public Service Commission the flexibility to facilitate wholesale competitive bidding, conduct retail competitive bidding, or both, for standard offer service, to permit standard offer service to be provided by the incumbent electric company, to change the date after which the standard offer service provider or providers will provide standard offer service to February 7, 2005, to clarify that the Commission's contingency plan for standard offer service shall apply in the event of either insufficient or inadequate competitive bids, and to require the Public Service Commission to determine the threshold financial viability of wholesale bidders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Electric Standard Offer Service Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D. C. Law 13-107; D.C. Official Code § 34-1501 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 34-1501) is amended by adding a new paragraph (29) to read as follows:

Note,
§ 34-1501

"(29) "Wholesale electricity supplier" shall mean the electric company, which pursuant to section 109, obtains bids from, and contracts for electric service with, third parties and provides standard offer service to retail customers."

(b) Section 109 (D.C. Official Code § 34-1509) is amended as follows:

Note,
§ 34-1509

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

(A) Paragraph (1) is amended by striking the phrase "January 1, 2005" and inserting the phrase "February 7, 2005" in its place.

(B) Paragraph (2)(A) is amended by striking the phrase "January 1, 2005" and inserting the phrase "February 7, 2005" in its place.

ENROLLED ORIGINAL

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

“(c) Before January 2, 2004, the Commission shall adopt regulations or issue orders establishing terms and conditions for standard offer service and for the selection of an electricity supplier or suppliers (retail, wholesale, or both) to provide standard offer service after February 7, 2005. The terms and conditions applicable to the selection of an electricity supplier or suppliers shall include:

“(1) Protection against a standard offer service provider's failure to provide service;

“(2) An appropriate rate design, subject to the restrictions in subsection (d) of this section;

“(3) The appropriate length of a standard offer service contract awarded under subsection (d) of this section; and

“(4) A contingency plan in the event of insufficient or inadequate bids; provided, that a contingency plan may award the standard offer service to the electric company or an affiliate of the electric company if it is in the public interest.”.

(3) Subsection (d)(1) is amended to read as follows:

“(1) After the regulations or orders mandated by subsection (c) of this section are issued, the Commission shall conduct competitive bid procedures for the selection of a retail electricity supplier or suppliers to provide standard offer service for the District of Columbia after February 7, 2005; authorize the electric company, as a wholesale electricity supplier, to conduct competitive bid procedures to obtain third-party contracts to provide standard offer service for the District of Columbia after February 7, 2005; or both. If competitive bid procedures for the selection of a retail electricity supplier or suppliers to provide standard offer service are conducted by the Commission, the competitive selection of retail electricity supplier or suppliers to provide standard offer service shall occur before July 2, 2004. In conducting the conducting retail bid procedures or facilitating the wholesale bid process under this subsection, the Commission:

“(A) Shall ensure that the price for standard offer service will not hinder the development of a competitive electricity supply market in the District of Columbia; and

“(B) May, in its discretion, solicit the payment, by the retail electricity supplier or suppliers chosen to provide standard offer service, of a bid premium.”.

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

“(e) The Commission shall determine the threshold financial viability of wholesale bidders.”.

Sec. 3. Fiscal impact statement.

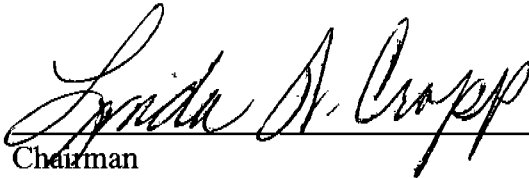
The Council adopts the fiscal impact statement in the committee report for the Electric Standard Offer Service Amendment Act of 2003, passed on 2nd reading on January 6, 2004 (Enrolled version of Bill 15-439), as the fiscal impact statement required by section 602(c)(1) of

ENROLLED ORIGINAL

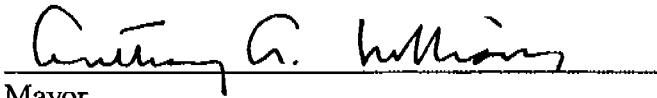
the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following the 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, beginning March 17, 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
March 18, 2004

AN ACT

D.C. ACT 15-401

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain property of the Crispus Attucks Development Corporation, a tax-exempt organization, 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 "Crispus Attucks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Relief Assistance Congressional Review Emergency 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 to the chapter is amended by adding a new section designation "§ 47-1057. Crispus Attucks Development Corporation, lot 0046 in square 3117."

(b) A new section 47-1057 is added to read as follows:

"§ 47-1057. Crispus Attucks Development Corporation, lot 0046 in square 3117.

"The real property located at 77 U Street, N.W., Washington, D.C., lot 0046 in square 3117, shall be exempt from all taxation so long as the same is used in carrying out the public purposes and activities of the Crispus Attucks Development Corporation and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009."

Sec. 3. Real property taxes, interest, penalties, fees, and other related charges assessed against the property located at 77 U Street, N.W., Washington, D.C., lot 0046 in square 3117, for the period of July 1, 1989 through January 31, 2003, shall be forgiven.

Sec. 4. Inclusion in the budget and financial plan.

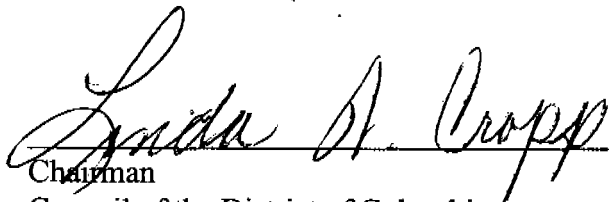
This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

ENROLLED ORIGINAL

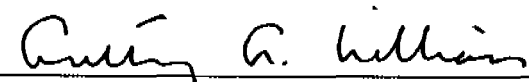
Sec. 5. Fiscal impact statement.

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)). This act shall take effect subject to an appropriation in the permanent bill to cover the fiscal impact identified in the attached fiscal impact statement.

Sec. 6. 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, beginning on March 21, 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
March 18, 2004

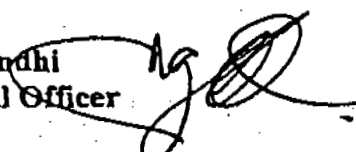
Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: DEC 16 2002

SUBJECT: Fiscal Impact Statement: "Crispus Attucks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2002"

REFERENCE: Draft Legislation as Introduced - Number Not Available

Conclusion

Funds are not sufficient in the FY 2003 through FY 2006 budget and financial plan as agreed to by the mayor and the Council of the District of Columbia. Implementing the provisions of the proposed legislation will result in unbudgeted reductions in real property tax revenue. The proposed foregone property tax and exemption will cause additional local General Fund revenue reductions of \$295,000 in FY 2003 and approximately \$325,000 in FY 2003 through FY 2006.

Background

The subject property was originally granted exempt status on July 1, 1977. It was returned to the tax roll effective July 1, 1989. Office of Tax and Revenue (OTR) sold the lien for this property for tax years 1990 through 1995 at the tax sales in 1996. Liens on this property for tax years 1996, 1997 and 1998 were also sold to individuals at OTR's annual tax sale in subsequent years.

The proposed legislation provides the Crispus Attucks Development Corporation with relief from all real property tax liability for Lot 0046 in Square 3117 located at 77 'U' Street, N.W. Provisions of the proposed legislation will require the District to forego or refund all real property taxation from October 1, 1994 to present including all fees.

The Honorable Linda W. Cropp

FIS: Draft Legislation, "Crispus Attucks Development Corporation

Real Property Tax Exemption and Equitable Real Property Tax Relief"

Page 2 of 2

penalties, interest and other related charges¹. The proposed legislation will exempt the subject property from future real property taxation conditioned on the owners maintaining the activities on the property as serving public purposes and not for commercial purposes.

Financial Plan Impact

Funds are not sufficient in the FY 2003 through FY 2006 budget and financial plan because the proposed legislation will result in unbudgeted reductions in real property tax revenue and tax refunds. The following table presents the estimated reduction to local General Fund revenue caused by the proposed tax relief and real property tax exemptions. An inflationary factor is applied beginning in tax year 2004.

Estimated Reduction in Local General Fund Revenue				
(\$ in 000s)				
FY 2003	FY 2004	FY 2005	FY 2006	4-Year Total
\$295	\$9	\$10	\$11	\$325

The Chief Financial Officer's legislative fiscal analysis is prepared by the Special Projects and Fiscal Analysis Administration in the Office of Research and Analysis. Contact us at 441 4th Street, NW, Suite 400S, Washington D.C., 20001 or view our work on-line at <http://cfo.dc.gov>.

¹ The District may be liable for attorney fees resulting from a terminated green property lien foreclosure stalled in July 2000. The full amount is yet to be disclosed.

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-402

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, section 407 of the District of Columbia Public Assistance Act of 1982 to require that applications for Interim Disability Assistance be processed with reasonable promptness, to authorize the Mayor to establish rules for the application process, and to establish that the monthly grant amount shall be the same as that for a family size of one for an individual or 2 for a couple under the Temporary Assistance to Needy Families program.

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

Sec. 2. Section 407 of the District of Columbia Public Assistance Act of 1982, effective April 3, 2001 (D.C. Law 13-252; D.C. Official Code § 4-204.07), is amended as follows:

*Note,
§ 4-204.07*

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

"(b) Applications for IDA shall be approved or disapproved by the Mayor with reasonable promptness. Other aspects of the application process, including good-cause exceptions to the application-processing standard, shall be determined by rules established by the Mayor. The monthly grant amount shall be the same as that for a family size of one for an individual or 2 for a couple under the Temporary Assistance to Needy Families program, as determined under section 552."

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

(1) Paragraph (1)(C) is amended by striking the phrase "applicable to the TANF program" and inserting the phrase "established by the Mayor" in its place.

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

(A) Subparagraph (B) is amended by striking the word "and" at the end.

(B) Subparagraph (C) is amended by striking the phrase "number." and inserting the phrase "number; and" in its place.

(C) A new subparagraph (D) is added to read as follows:

"(D) As a condition of eligibility, an applicant for or recipient of IDA

shall cooperate with an entity designated by the Mayor to provide case management and legal advocacy in the SSI application and appeal process."

Sec. 3. Applicability.

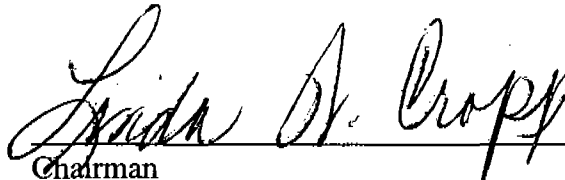
This act shall apply as of March 13, 2004.

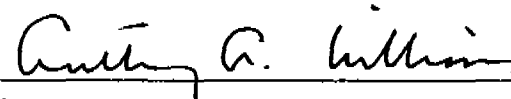
Sec. 4. Fiscal impact statement.

There is no fiscal impact.

Sec. 5. Effective date.

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


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
March 18, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-403

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
MARCH 18, 2004

*Codification
 District of
 Columbia
 Official Code*

2001 Edition

2004 Summer
 Supp.

West Group
 Publisher

To amend, on an emergency basis, due to Congressional review, the Office of Administrative Hearings Establishment Act of 2001 to establish that the office shall not have mandatory jurisdiction to hear District of Columbia Public Schools special education cases, which jurisdiction threatens to impair the independence of the office, and to clarify that funding for the adjudication of District of Columbia Public Schools special education cases shall remain in the Fiscal Year 2004 budget of the District of Columbia Public Schools.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Administrative Hearings Independence Preservation Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*), is amended as follows:

- (a) Section 5(c)(2) (D.C. Official Code § 2-1831.02(c)(2)) is repealed.
- (b) Section 6 (D.C. Official Code § 2-1831.03) is amended as follows:

- (1) Subsection (a)(4) is repealed.
- (2) Subsection (c) is amended to read as follows:

"(c) Those agencies that are not included in subsections (a) or (b) of this section may:

"(1) Refer individual cases to the Office, with the approval of the Chief Administrative Law Judge; or

"(2) Elect to be covered by this act, subject to the approval of the Chief Administrative Law Judge and the Mayor, and upon such terms as the Mayor may set."

Sec. 3. Applicability.

This act shall apply as of March 17, 2004.

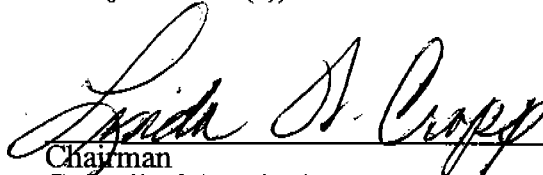
Sec. 4. Fiscal impact statement.

This legislation will not have a fiscal impact because the District of Columbia Public Schools' Fiscal Year 2004 budget includes \$1.8 million in funding for special education adjudications, from which the Chief Financial Officer was mandated to transfer a pro rata share to the Office of Administrative Hearings once that office assumed responsibility for special education adjudications. This legislation provides in section 2(b) that special education cases shall not be part of the Office of Administrative Hearings' mandatory jurisdiction and further provides in section 2(a) that all funding budgeted for special education cases shall remain in the District of Columbia Public Schools' Fiscal Year 2004 budget and shall not be transferred to the Office of Administrative Hearings.

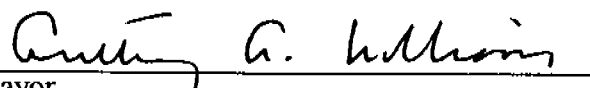
Note,
 § 2-1831.02
 Note,
 § 2-1831.03

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
March 18, 2004

AN ACT

D.C. ACT 15-404

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on an emergency basis, the Business Improvement Districts Act of 1996 to approve the establishment of the Mount Vernon Triangle business improvement district.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Mount Vernon Triangle Business Improvement District Emergency Amendment Act of 2004".

Sec. 2. The Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 et seq.), is amended as follows:

(a) Section 3(18) (D.C. Official Code § 2-1215.02(18)) is amended to read as follows:

Note,
§ 2-1215.02

"(18) "Nonexempt real property" means real property that is not exempt from paying real property taxes pursuant to section 47-1001 et seq., is not residential property, and is not the residential portion of a property used for both residential and nonresidential purposes; except, in the case of the Mount Vernon Triangle BID, "nonexempt real property" means real property that is not:

"(A) Exempt from paying real property taxes pursuant to section 47-1001 et seq.;

"(B) A residential building where, upon the effective date of the Business Improvement District Emergency Amendment Act of 2004, passed on 1st reading on March 2, 2004 (Enrolled version of Bill 15-735), 90% or more of the leased units are restricted to households with at least one individual of 62 years of age or older and all individuals of 55 years of age or older;

"(C) A residential building where, upon the effective date of the Business Improvement District Emergency Amendment Act of 2004, passed on 1st reading on March 2, 2004 (Enrolled version of Bill 15-735), 20% or more of the units are subject to a contract for project-based assistance under section 8 of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 663; 42 U.S.C. 1437f); or

"(D) A residential building with fewer than 10 residential units."

(b) Section 5 (D.C. Official Code § 2-1215.04) is amended as follows:

Note,
§ 2-1215.04

(1) Subsection (b) is amended by striking the phrase "or Capitol Hill" and inserting the phrase "Capitol Hill or Mount Vernon Triangle" in its place.

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

"(e-3)(1) Subject to the review and approval of the Mayor under the provisions of sections 5 and 6, the formation of the Mount Vernon Triangle BID, including all nonexempt real property within the geographic areas set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the expiration date of this act or the termination or dissolution of the BID.

"(2) The Mount Vernon Triangle BID shall be comprised of the geographic area bounded by a line that begins at the center of the intersection of 7th Street, N.W., and L Street, N.W., and continues east down the middle of L Street, N.W., until it reaches New York Avenue, N.W.; and continues northeast down the middle of New York Avenue, N.W., until it reaches New Jersey Avenue, N.W.; and continues southeast down the middle of New Jersey Avenue, N.W., until it reaches Massachusetts Avenue, N.W.; and continues northwest down the middle of Massachusetts Avenue, N.W., until it reaches 7th Street, N.W.; and continues north down the middle of 7th Street, N.W., until it reaches the center of the intersection of 7th Street, N.W., and L Street, N.W.

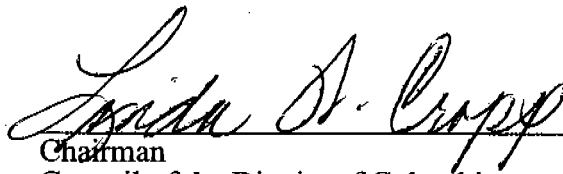
"(3) The BID taxes for the nonexempt real properties in the Mount Vernon Triangle BID shall be 20 cents per square foot of land."

Sec. 3. Fiscal impact statement.

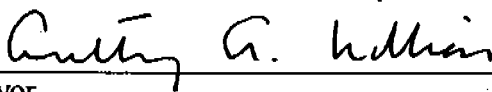
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 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
March 18, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR

FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported: September 2003
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Subject/Short Title: Mount Vernon Triangle Business Improvement District Emergency Amendment Act of 2004

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X) See 3 below.
a) It will affect local expenditures.	()	()
b) It will affect federal expenditures.	()	()
c) It will affect private/other expenditures.	()	()
d) It will affect intra-District expenditures.	()	()
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X) See 3 below.
a) It will impact local revenue.	()	()
b) It will impact federal revenue.	()	()
c) It will impact private/other revenue.	()	()
d) It will impact intra-District revenue.	()	()
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(X)	()
The bill will approve the establishment of the Mount Vernon Triangle BID. The bill would lead to an increase in revenues collected by the District, in the form of increased BID tax collections, but the increased revenue will be passed through to the BID.		

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. The bill will increase the collections of the Districts Office of Tax and Revenue; however, the increased collections will be passed through to the BID.	(X)	()
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? This bill will authorize the provision of BID services to a new geographic area. The provision of these services will help improve the image of the area and help attract investors and residents to the area.	(X)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year? No additional funds are necessary to implement this bill.	(X)	()

Sources of information:

Councilmember: Harold Brazil

Staff Person & Tel: Barry Kreiswirth 724-8792

Council Budget Director's Signature: *Ann B. ...*

2/27/04

AN ACT

D.C. ACT 15-405

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004Codification
District of
Columbia
Official Code

2001 Edition

2004 Summer
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 total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is 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 associated documentation used to:

- "(i) Identify system components and versions of such components;
- "(ii) Test the system during its development and maintenance;
- "(iii) Maintain records of system errors and defects;
- "(iv) Determine specific system changes to be made to a system after the initial qualification of the system; and
- "(v) Make available any materials to the voter such as notices, instructions, forms, or paper ballots.

(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 single, uniform, official, interactive computerized voter registration list, which shall:

“(A) Serve as the official voter registration list for the conduct of all elections in the District;

“(B) Contain the name and registration information of every duly registered voter in the District and assign a unique identifier to each duly registered voter in the District;

“(C) Be defined and administered in accordance with the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat 1666; 42 U.S.C § 15301 *et seq.*), and pertinent federal and local law; and

“(D) Be coordinated with other agency databases within the District;”.

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

“(10) Be responsible for:

“(A) Providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for federal office (including procedures relating to the use of the federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in the District;

“(B) Accepting valid voter registration applications, absentee ballot applications, and absentee ballots, including federal write-in absentee ballots, from all such individuals; and

“(C) Otherwise complying with the Uniformed and Overseas Citizens Absentee Voting Act of 1986, approved August 28, 1966 (112 Stat. 2681-877; 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 voting information to be publicly 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 date of 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, approved October 29, 2002 (116 Stat. 1708; 42 U.S.C § 15483);

“(5) General information on voting rights under applicable federal and District

ENROLLED ORIGINAL

laws, including the right of individual to cast a special ballot and instructions on how 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 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 Election Assistance Commission, on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election. The report shall be transmitted by the Mayor to the Election Assistance Commission and shall be made available to the public.”

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

Note,
§ 1-1001.07

(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 it includes:

“(A) The applicant’s driver’s license number in the case of an applicant who has been issued a current and valid driver’s license; or

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

“(2) If an applicant for voter registration has not been issued a current and valid driver’s license or a social security number, the Board shall assign the applicant a unique identifier which shall serve to identify the applicant for voter registration purposes and which shall be the same unique identifier provided for in section 5(a)(1).”

(2) Subsection (b)(1) and (2) is amended as follows:

“(1) The Board shall prepare and use a registration application form that meets the requirements of the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973gg *et seq.*), and the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C. § 15301 *et seq.*), and in which each request for information is readily understandable and can be satisfied by a concise answer or mark.

“(2) Mail-in voter registration application forms approved by the Board shall meet the requirements of the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973gg *et seq.*), and the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C. § 15301 *et seq.*), shall be designed to provide an easily understood method of registering to vote by mail and shall be mailed to the Board with postage prepaid. These forms shall have printed on them, in bold face type, the penalties for fraudulently attempting to register to vote pursuant to section 14(a) and the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973gg *et seq.*). If an applicant for voter registration fails to properly complete the mail voter registration form, the Board’s registrar shall notify the applicant of the failure and provide the applicant with an

ENROLLED ORIGINAL

opportunity to complete the form in a timely manner to allow for the completion of the registration form 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 the extent required to enable each agency to verify the accuracy of the information provided 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 federal postcard applications from those persons eligible to vote absentee in federal elections held in the District of Columbia pursuant to the Uniformed and Overseas Citizens Absentee Voting Act of 1986, approved August 28, 1966 (112 Stat. 2681-877; 42 U.S.C. § 1873ff *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, at the time of registration, at the polling place, or when voting by mail, either a copy of a current and valid government-issued 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 any such forms of identification shall vote by special ballot. This paragraph shall not apply to individuals:

“(A)(i) Whose registration application includes either a driver’s license number or at least the last 4 digits of his or her social security number; and

“(ii) Whom the Board has been able to match the provided information with an existing identification record bearing the same number, name, and date of birth as provided in the registration application; or

“(B) 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) An individual who votes in an election for federal office as a result of a federal or local court order or any other order extending the time established for closing the polls by a District law in effect 10 days before the date of the election shall vote in the election by casting a special ballot. A ballot cast under the preceding sentence shall be separated and held apart from other special ballots cast by those 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, during regular business hours, the Board shall maintain a toll-free telephone service by which any voter who has voted a challenged or special ballot may learn of the Board’s preliminary decision to count or reject his

Note,
§ 1-1001.09

or her ballot along with 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 hearing authorized pursuant to this paragraph shall occur not earlier than 8 days, and not later than 10 days, after any election held pursuant to this act. The Board shall inform the voter of the date scheduled for the hearing and the manner by which he or she may learn of 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.”.

(3) 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, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C § 15301 *et seq.*). The Board may implement additional standards if they do not conflict with those set forth in the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1606; 42 U.S.C. § 15301 *et seq.*).”.


(e) Section 10(b)(1) (D.C. Official Code § 1-1001.10(b)(1)) is amended by striking the phrase “7:00 a.m. to 8:00 p.m.” and inserting the phrase “7:00 a.m. to 8:00 p.m., 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.” in its place.

Sec. 3. This act shall have no fiscal impact.

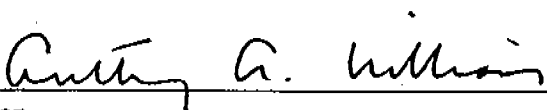
Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, beginning on March 17, 2004, as provided for emergency acts of the

ENROLLED ORIGINAL

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
March 18, 2004

**COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR FISCAL IMPACT STATEMENT**

Type: Emergency () Temporary () Permanent (x)	Date Reported: December 2003
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Subject/Short Title: "Help America Vote Amendment Act of 2003"

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.	()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue.	()	(x)
d) It will impact intra-District revenue.	()	(x)
Explanation:		
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	()	(x)

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.		YES	NO
1. It will affect an agency and/or agencies in the District.	The proposed emergency legislation will serve to bring the District into compliance with the Help America Vote Act of 2002.	(x)	()
2. Are there performance measures/output for this bill?		()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	If the bill is not enacted, the District will not be in compliance with the Help America Vote Act of 2002.	(x)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	The proposed legislation would not authorize unbudgeted expenses.	(x)	()

Sources of information: Staff	Councilmember: Vincent B. Orange, Sr.
	Staff Person & Tel: Marc K. Battle(202) 724-8153
	Council Budget Director's Signature: <i>AMR</i>

12/2/03

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-406

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on an emergency basis, An Act Authorizing the sale of certain real estate in the District of Columbia no longer needed for public purposes, to establish a new time period in which the Mayor may dispose of certain property located in Ward 8 in accordance with the Request for Proposals for the Disposition of Camp Simms Approval Resolution of 2000.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Disposal of District-Owned Surplus Real Property in Ward 8 Emergency Amendment Act of 2004".

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer needed for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (d-3) to read as follows:

Note,
§ 10-801

"(d-3)(1) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of a 25-acre site legally described as Lot 804, Square 5912, in Ward 8 in accordance with the Request for Proposals for the Disposition of Camp Simms Approval Resolution of 2000, effective December 5, 2000 (Res. 13-715; 47 DCR 9984), is extended to March 2, 2006.

"(2) This subsection shall apply as of December 5, 2002."

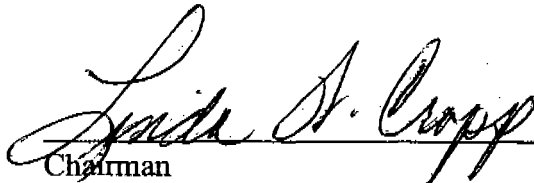
Sec. 3. Fiscal impact statement.

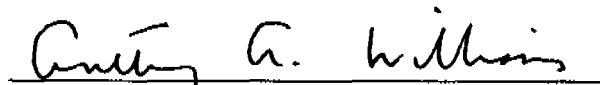
This act will have a positive fiscal impact by resulting in transfer of property owned by the District of Columbia ("District"), thus exempt from District property taxes, to ownership by a private-sector development subject to District property taxes. The resulting new property tax revenue was estimated at \$600,000 annually in 2000. Creation of new jobs for District residents, estimated at 350-400 in 2000, will generate additional sums in District income, sales, payroll, and business tax revenue. This section constitutes 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
March 18, 2004

AN ACT

D.C. ACT 15-407

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish a mandatory drug and alcohol testing program for certain District of Columbia government applicants and employees; to establish a criminal background check program for employees and volunteers of District of Columbia agencies that provide direct services to children and youth, and for employees of the Child Support Enforcement Division of the Office of the Corporation Counsel; to establish uniform health screening requirements and the use of uniform health forms for all District of Columbia children; to authorize the Director of the Department of Human Services to take a child into custody when a child committed to the legal custody of the Department absconds from a community-based placement or violates any of the terms of his or her placement; to establish an Early Intervention Program to provide early intervention services for infants and toddlers from birth to 2 years of age and their families; to amend the District of Columbia Public School Nurse Assignment Act of 1987 to require that nurses be assigned to public charter schools; to amend the District of Columbia Uniform Controlled Substances Act of 1981 to designate all areas within 1000 feet of public charter schools as drug free zones; and to establish a Postsecondary Education Assistance Trust Fund to assist needy children with the cost of postsecondary education, utilizing funds generated by an individual income tax check-off.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2004".

TITLE I. MANDATORY DRUG AND ALCOHOL TESTING PROGRAM.

Sec. 101. Short title.

This title may be cited as the "Mandatory Drug and Alcohol Testing for the Protection of Children Congressional Review Emergency Amendment Act of 2004".

ENROLLED ORIGINAL

Sec. 102. 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 by adding a new title XX-C to read as follows:

"TITLE XX-C

"MANDATORY DRUG AND ALCOHOL TESTING FOR
CERTAIN EMPLOYEES WHO SERVE CHILDREN.

"Sec. 2031. Definitions.

"For the purposes of this title, the term:

"(1) "Applicant" means any person who has filed any written employment application forms to work for the District of Columbia government, or has been tentatively selected for employment.

"(2) "Children" means individuals 12 years of age and under.

"(3) "District" means the District of Columbia.

"(4) "District employee" means an employee of the District of Columbia government.

"(5) "Drug" means an unlawful drug and does not include over-the-counter prescription medications.

"(6) "Employee" means any person employed in a position for which he or she is paid for services on any basis.

"(7) "Post-accident employee" means a District employee in a safety-sensitive position who, while on-duty, is involved in a vehicular or other type of accident resulting in personal injury or property damage, or both.

"(8) "Probable cause" or "reasonable suspicion" means a reasonable belief by a supervisor that an employee in a safety-sensitive position is under the influence of an illegal drug or alcohol to the extent that the employee's ability to perform his or her job is impaired.

"(9) "Random testing" means drug or alcohol testing conducted on a District employee at an unspecified time for purposes of determining whether any District employee subject to drug testing has used drugs or alcohol and, as a result, is unable to satisfactorily perform his or her employment duties.

"(10) "Reasonable suspicion referral" means referral of an employee in a safety-sensitive position for testing by the District for drug or alcohol use.

"(11) "Safety-sensitive position" means employment in which the employee has direct contact with children and youth, is entrusted with the direct care or custody of children and youth, and whose performance of his or her duties may affect the health, welfare, or safety of children and youth.

"(12) "Youth" means individuals between 13 and 17 years of age, inclusive.

"Sec. 2032. Employee testing.

"(a) The following individuals shall be tested by the District government for drug and alcohol use:

ENROLLED ORIGINAL

"(1) Applicants for employment in safety-sensitive positions;

"(2) Applicants for employment in positions in the Child Support Enforcement Division of the Office of the Corporation Counsel, including temporary and contractual positions;

"(3) Those employees who have had a reasonable suspicion referral;

"(4) Post-accident employees, as soon as reasonably possible after the accident;
and

"(5) District government employees or contractual employees who work in safety-sensitive positions.

"(b) The District shall only subject employees in subsection (a)(3) and (a)(5) of this section to random testing.

"(c) Supervisors shall be trained in substance abuse recognition and shall receive a second opinion from another supervisor prior to making a reasonable suspicion referral.

"(d) Employees shall be given at least a 30-day (calendar) written notice from March 26, 2002 that the District is implementing a drug and alcohol testing program. Upon receipt of a written notice of the program, each employee shall be given one opportunity to seek treatment, if he or she has a drug or alcohol problem. Following March 26, 2002, the Department shall procure a testing vendor and testing shall be implemented as described in this title.

"Sec. 2033. Motor vehicle operators.

"Any District government employee who operates a motor vehicle in the performance of his or her employment within the District of Columbia shall be deemed to have given his or her consent, subject to the conditions in this title, to the testing of the employee's urine or breath for the purpose of determining drug or alcohol content whenever a supervisor has probable cause or a police officer arrests such person for a violation of the law and has reasonable grounds to believe such person to have been operating or in physical control of a motor vehicle within the District while that person's breath contains .08 percent or more, by weight, of alcohol, or while under the influence of an intoxicating liquor or any drug or combination thereof, or while that person's ability to operate a motor vehicle is impaired by the consumption of intoxicating liquor.

"Sec. 2034. Testing methodology.

"(a) Testing shall be performed by an outside contractor at a laboratory certified by the United States Department of Health and Human Services ("HHS") to perform job-related drug and alcohol forensic testing.

"(b) For random testing of employees, the contractor shall, at a location designated by the District to collect urine specimens on-site, split each sample and perform enzyme-multiplied-immunosorbent assay technique ("EMIT") testing on one sample and store the split of that sample. Any positive EMIT test shall be then confirmed by the contractor, using the gas chromatography/mass spectrometry ("GCMS") methodology.

"(c) Any District employee found to have a confirmed positive urinalysis shall be notified of the result. The employee may then authorize that the stored sample be sent to

another HHS-certified laboratory of his or her choice, at his or her expense, for a confirmation, using the GCMS testing method.

"(d) Reasonable suspicion and post-accident employee testing shall follow the same procedures set forth in subsections (a) through (c) of this section. In such cases, the employee shall be escorted by a supervisor to the contractor's test site for specimen collection or a breathalyser.

"(e) A breathalyser shall be deemed positive by the District's testing contractor if the contractor determines that 1 milliliter of the employee's breath (consisting of substantially alveolar air) contains .38 micrograms or more of alcohol.

"Sec. 2035. Procedure and employee impact.

"A drug and alcohol testing policy shall be issued in advance of implementing the drug and alcohol program to inform employees of the requirements of the program and to allow each employee one opportunity to seek treatment, if he or she has a drug or alcohol program. Thereafter, any confirmed positive drug test results, positive breathalyser test, or a refusal to submit to a drug test or breathalyser shall be grounds for termination of employment in accordance with this act. This testing program shall be implemented as a single program. The results of a random test shall not be turned over to any law enforcement agency without the employee's written consent.

"Sec. 2036. Coverage of private providers.

"Each private provider that contracts with the District of Columbia to provide employees to work in safety-sensitive positions shall establish mandatory drug and alcohol testing policies and procedures that are consistent with the requirements of this title.

"Sec. 2037. Rules.

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

TITLE II. CRIMINAL BACKGROUND CHECKS.

Sec. 201. Short title.

This title may be cited as the "Criminal Background Checks for the Protection of Children Congressional Review Emergency Act of 2004".

Sec. 202. Definitions.

For the purposes of this title, the term:

(1) "Agency that provides direct services to children and youth" means any public or private District agency that provides to children and youth, or for the benefit of children and youth, services that affect the health, safety, and welfare of children and youth, including individual and youth counseling, therapy, case management, supervision, or mentoring.

ENROLLED ORIGINAL

(2) "Applicant" means an individual who has filed a written application for employment with any public or private District agency that provides direct services to children and youth or an individual who has made an affirmative effort through a written application or a verbal request to serve in a volunteer position with a public or private District agency that provides direct services to children and youth. Applicant shall also mean an individual who has filed a written application for employment with the Child Support Enforcement Division of the Office of the Corporation Counsel.

(3) "Children" means individuals 12 years of age and under.

(4) "Criminal background check" means the investigation of a person's criminal history through the record systems of the Federal Bureau of Investigation and the District of Columbia Metropolitan Police Department.

(5) "District" means the District of Columbia.

(6) "Employee" means an individual who is employed on a full-time, part-time, temporary, or contractual basis by a District agency that provides direct services to children and youth.

(7) "FBI" means Federal Bureau of Investigation.

(8) "MPD" means the District of Columbia Metropolitan Police Department.

(9) "Volunteer" means any individual who works without any monetary or any other financial compensation for any District agency that provides direct services to children and youth.

(10) "Youth" means individuals between 13 and 17 years of age, inclusive.

Sec. 203. Criminal background checks required for certain individuals.

The following individuals shall apply for criminal background checks in accordance with the requirements of section 205(a):

(1) Each applicant who is under consideration for employment, either compensated or voluntary, by any public or private District agency that provides direct services to children and youth, as defined by regulations promulgated pursuant to section 208.

(2) Each person who is employed by any public or private District agency that provides direct services to children and youth, as defined by regulations promulgated pursuant to section 208.

(3) Each applicant under consideration for employment by the Child Support Enforcement Division of the Office of Corporation Counsel, as defined by regulations promulgated pursuant to section 208.

(4) Each person employed by the Child Support Enforcement Division of the Office of the Corporation Counsel, as defined by regulations promulgated pursuant to section 208.

Sec. 204. Authorization to obtain records.

(a) The Mayor is authorized to obtain criminal history records maintained by the Federal Bureau of Investigation and the Metropolitan Police Department and traffic records maintained by the Department of Motor Vehicles to investigate a person applying for employment, in either a compensated or a volunteer position, or current employees and volunteers of public and private agencies that provide direct services to children and youth.

(b) Before any applicant for employment, in either a compensated or a volunteer position, with an agency providing direct services to children and youth may be offered a position, the Mayor or the private agency shall inform the applicant that a criminal background check must be conducted on him or her, and in the case of an employee or volunteer who is required to drive a motor vehicle to transport children in the course of performing his or her duties, a traffic record check must also be conducted.

(c) The Mayor is authorized to obtain criminal history records maintained by the Federal Bureau of Investigation and the Metropolitan Police Department and traffic records maintained by the Department of Motor Vehicles to investigate a person employed by the Child Support Enforcement Division of the Office of Corporation Counsel.

(d) Before any applicant for employment with the Child Support Enforcement Division of the Office of the Corporation Counsel may be offered a position, the Mayor shall inform the applicant that a criminal background check must be conducted on him or her, and in the case of an employee who is required to drive a motor vehicle to transport children in the course of performing his or her duties, a traffic record check must also be conducted.

Sec. 205. Criminal background checks required before offer of employment

(a) An individual described in section 203 shall not be offered employment until a criminal background check has been conducted on that person and the person is determined to meet the requirements of this title. The individual shall submit to a criminal background check by means of fingerprint and National Criminal Information Center checks conducted by the Mayor and the FBI. The individual shall provide a complete set of legible fingerprints on a fingerprint card, in a form approved by the FBI. These fingerprints shall be available for use by the Mayor and the FBI to conduct a local and national criminal history record check of the individual.

(b) The Mayor shall conduct a criminal background check once the applicant has provided:

- (1) A set of qualified fingerprints;
- (2) Written approval authorizing the Mayor to conduct a criminal background check;
- (3) A confirmation that he or she has been informed by the Mayor or the District agency that the Mayor is authorized to conduct a criminal background check on the applicant;

ENROLLED ORIGINAL

(4) Any additional identification that is required, such as name, social security number, birth date, and gender;

(5) An affirmation that he or she has not been convicted of a crime in the District of Columbia or in any other state or territory, for any of the following felony offenses or their equivalent in another state or territory:

- (A) Murder, attempted murder, manslaughter or arson;
- (B) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem, or threats to do bodily harm;
- (C) Burglary;
- (D) Robbery;
- (E) Kidnapping;
- (F) Theft, fraud, forgery, extortion, or blackmail;
- (G) Illegal use or possession of a firearm;
- (H) Trespass or injury to property;
- (I) Rape, sexual assault, sexual battery, or sexual abuse;
- (J) Child abuse or cruelty to children; or
- (K) Unlawful distribution or possession of, or possession with intent to distribute, a controlled substance;

(6) An acknowledgment that the Mayor or the District agency has notified the applicant of the applicant's right to obtain a copy of the criminal background check report and to challenge the accuracy and completeness of the report; and

(7) An acknowledgment that the Mayor or the District agency may choose to deny the applicant employment or a volunteer position based on the outcome of the criminal background check.

(c) Each employee or volunteer shall be required to submit to periodic criminal background checks while employed by or volunteering at any District agency covered by this title.

Sec. 206. Establishment of office to conduct criminal background checks.

The Mayor shall establish a District government office to conduct the criminal background checks, including the fingerprinting of individuals required by section 205. The office shall be staffed, at minimum, by one FBI-approved person to fingerprint applicants for criminal background checks and one person to provide clerical services. The office shall conduct criminal background checks in accordance with FBI policies and procedures and shall be housed in an FBI-approved environment.

Sec. 207. Confidentiality of information to be maintained.

All criminal background records received by the Mayor shall be confidential and are for the exclusive use of making employment-related determinations under this title. The records

ENROLLED ORIGINAL

shall not be released or otherwise disclosed to any person except when:

- (1) Required as one component of an application for employment with a District agency covered under this title;
- (2) Requested by the Mayor or his or her designee during an official inspection or investigation;
- (3) Ordered by a court;
- (4) Authorized by the written consent of the person being investigated; or
- (5) Utilized for a corrective or adverse action in a personnel proceeding.

Sec. 208. Rules.

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. The rules shall include:

- (1) Standards for determining whether public or private agencies are required to comply with the requirements of this title;
- (2) Procedures for agencies to challenge the determination that they are required to comply with this title;
- (3) Procedures for an applicant or employee to challenge allegations that he or she committed a proscribed offense;
- (4) A sliding fee schedule for the payment of the cost of criminal background checks; and
- (5) A description of the corrective or adverse actions that may be taken against an agency or employee that violates the provisions of this title.

Sec. 209. Submission of names of public and private agencies that provide direct services to children and youth.

(a) Each District government agency shall submit to the Mayor the names of any public or private agency that provides direct services to children and youth with employees or volunteers that it believes should be subject to the criminal background check requirements of this title within 30 days of March 26, 2002.

(b) The Mayor shall publish a notice in the District of Columbia Register requesting that District residents and agencies submit the names of public and private agencies that provide direct services to children and youth and whose employees and volunteers should be subject to the criminal background check requirements of this title within 45 days from the date of publication of the notice.

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Sec. 210. Assessment of information on public and private agencies.

The Mayor shall review the information on public and private agencies submitted pursuant to section 209 and any other available information to make a decision on the agencies that will be required to comply with this title.

Sec. 211. Notice to agencies for employees and volunteers to obtain criminal background checks.

(a) The Mayor shall publish in the District of Columbia Register a notice that applicants for employment with and employees of clearly identified private agencies that provide direct services to children and youth are required to apply for criminal background checks within 45 days from the date of publication of the notice.

(b) The notice shall inform agencies subject to the requirements of this title of the location of the office in which applications for criminal background checks are to be made.

Sec. 212. Licensure requirements and reimbursement for cost of criminal background checks.

(a) Prior to the issuance or the renewal of any license for an agency that provides direct services to children and youth to operate, the agency shall provide evidence that criminal background checks have been conducted on its employees and volunteers who provide direct services to children and youth. A license shall not be issued or renewed for any private agency that has employees or volunteers who provide direct services to children and youth in the District of Columbia and who have not had criminal background checks.

(b) The Mayor shall establish, by regulation, a sliding fee schedule for the payment of the cost of criminal background checks by public and private agencies in the District of Columbia.

Sec. 213. Penalty for providing false information.

An applicant for employment or a volunteer position with any District agency that provides direct services to children and youth who provides false information in the course of applying for the position shall be subject to prosecution pursuant to section 404 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 § 22-2405).

Sec. 214. Penalties for disclosing confidential information.

(a) An individual who discloses confidential information in violation of section 207 is guilty of a criminal offense and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than 180 days, or both.

(b) Prosecutions for violations of this title shall be brought in the name of the District upon information by the Corporation Counsel.

TITLE III. CHILD HEALTH REQUIREMENTS.

Sec. 301. Short title.

This title may be cited as the "Uniform Child Health Screening Requirements and Reporting Form Congressional Review Emergency Act of 2004".

Sec. 302. Purpose.

The purpose of this legislation is:

- (1) To establish uniform health screening requirements for all children, from birth to 21 years of age, in the District of Columbia, regardless of their insurance status, including children who are wards of the District and children with special needs who reside or are receiving services in another state;
- (2) To improve the overall health status of all children by ensuring consistency in health screening and early detection of health problems and enabling children to obtain the necessary prevention, treatment, and intervention services at the earliest opportunity;
- (3) To reduce parental stress and increase parental satisfaction and compliance with health screening requirements by using a uniform health form for participation or enrollment in all child-related health, human or social services, and educational programs; and
- (4) To provide the Mayor with the information necessary to effectively plan, establish, and evaluate a comprehensive system of appropriate preventive services for children for early detection of potential health problems.

Sec. 303. Definitions.

For the purposes of this title, the term:

- (1) "Child-related educational program" means public and private schools, including pre-kindergarten, kindergarten, and special education.
- (2) "Child-related health program" means Medicaid, Children Health Insurance Program ("CHIP"), Healthy Start, Healthy Families, Early Intervention, and private health insurance.
- (3) "Child-related human or social services program" means child-care programs, children in foster care, Head Start, and Women, Infants and Children.
- (4) "Uniform health form" means a standardized form developed by the Mayor for use during periodic physical examinations of children.

Sec. 304. Establishment of uniform health screening requirements and forms.

- (a) The Mayor shall establish uniform health screening requirements consistent with the standards and schedules of the American Academy of Pediatrics for all children, from birth to 21 years of age, in the District of Columbia, regardless of insurance status, including children who are wards of the District and children with special needs who reside or who are receiving services in another state.

ENROLLED ORIGINAL

(b) The Mayor shall develop a uniform health form for enrollment of children in child-related health, human or social services, and educational programs.

Sec. 305. Payment for health screenings.

(a) An insurer's health benefits plan shall include the uniform health screening requirements for children from birth to age 21 years in the District, including children with special needs who reside or who are receiving services in another state.

(b) The enrollments for Medicaid, Head Start, Healthy Families, and CHIP are expanded to include the requirement of uniform health screenings for all children.

Sec. 306. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this title.

TITLE IV. AUTHORIZATION FOR THE DEPARTMENT OF HUMAN SERVICES TO TAKE CHILDREN INTO CUSTODY.

Sec. 401. Short title.

This title may be cited as the "Juvenile Protective Custody Congressional Review Emergency Act of 2004".

Sec. 402. Section 16-2309(a) of the District of Columbia Official Code is amended as follows:

Note,
§ 16-2309

(a) Paragraph (7) is amended by striking the word "or" at the end.

(b) Paragraph (8) is amended by striking the period at the end and inserting the phrase "; or" in its place.

(c) A new paragraph (9) is added to read as follows:

"(9) by the Director of the Department of Human Services when a child committed to the legal custody of the Department of Human Services absconds from a community-based placement or violates any of the terms of his or her aftercare placement. For the purposes of this paragraph, the term "aftercare placement" means the placing of a child who has been committed to the legal custody of the Department of Human Services in the community under the supervision of a trained social worker."

TITLE V. ESTABLISHMENT OF THE D.C. EARLY INTERVENTION PROGRAM.

Sec. 501. Short title.

This title may be cited as the "D.C. Early Intervention Program Establishment Congressional Review Emergency Act of 2004".

ENROLLED ORIGINAL

Sec. 502. Purpose.

The purpose of this legislation is:

- (1) To enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;
- (2) To reduce the educational costs to our society, including our schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;
- (3) To minimize the likelihood for institutionalization of individuals with disabilities and maximize the potential for their independent living in society;
- (4) To enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities;
- (5) To establish collaborative activities among agencies of the District of Columbia that administer programs relating to young children to maximize the quality of early intervention services; and
- (6) To enhance the capacity of city agencies and service providers to identify, evaluate, and meet the special needs of historically under-represented populations, particularly minorities, low-income, and inner-city populations.

Sec. 503. Establishment of Early Intervention Program and Interagency Coordinating Council.

(a) There is established in the District of Columbia an Early Intervention Program ("Program") to provide early intervention services to infants and toddlers, from birth through 2 years of age, and their families. The Program will be administered and supervised by a lead agency designated by the Mayor. The services shall be provided in accordance with the requirements of the Individuals with Disabilities Education Act, approved June 4, 1997 (111 Stat. 37; 20 U.S.C. §§ 1400 *et seq.*).

(b) There is established an Interagency Coordinating Council to advise and assist the Mayor with the implementation of the Program, including the establishment of interagency agreements.

Sec. 504. Rules.

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

TITLE VI. ASSIGNMENT OF NURSES TO PUBLIC CHARTER SCHOOLS.

Sec. 601. Short title.

This title may be cited as the "Public Charter School Nurse Assignment Congressional Review Emergency Amendment Act of 2004".

ENROLLED ORIGINAL

Sec. 602. Section (2)(a) of the District of Columbia Public School Nurse Assignment Act of 1987, effective December 10, 1987 (D.C. Law 7-45; D.C. Official Code § 38-621(a)), is amended by adding the phrase "and public charter" after the word "public".

Note,
§ 38-621

TITLE VII. DRUG FREE ZONES WITHIN 1000 FEET OF PUBLIC CHARTER SCHOOLS.

Sec. 701. Short title.

This title may be cited as the "Public Charter Schools Drug Free Congressional Review Emergency Amendment Act of 2004".

Sec. 702. Section 407a 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 by adding after the phrase "secondary school," the phrase "public charter school,"

Note,
§ 48-904.07a

TITLE VIII. POSTSECONDARY EDUCATION TAX CHECK-OFF FOR NEEDY INDIVIDUALS.

Sec. 801. Short title.

This title may be cited as the "Postsecondary Education Assistance Trust Fund Tax Check-Off Congressional Review Emergency Act of 2004".

PART A

Sec. 802. Definitions.

For the purposes of this title, the term:

- (1) "District" means the District of Columbia.
- (2) "Needy Families" means any family that qualifies for federal assistance as defined by the guidelines in the Federal Application for Student Financial Aid.
- (3) "Tax check-off" means the postsecondary education assistance tax check-off system established in D.C. Official Code § 47-1812.11c.
- (4) "Trust Fund" means the Postsecondary Education Assistance Trust Fund established in section 803.

Sec. 803. Establishment of the Postsecondary Education Assistance Trust Fund.

(a) There is established a Postsecondary Education Assistance Trust Fund into which shall be deposited the funds generated by the tax check-off established by D.C. Code § 47-1812.11c and any other funds generated by the Trust Fund's Board of Directors.

(b) The Trust Fund shall be used to assist needy residents of the District of Columbia in pursuing postsecondary education opportunities.

Sec. 804. Establishment of Board of Directors.

(a) A self-perpetuating Board of Directors is established to manage the affairs of the Trust Fund. The Board of Directors shall consist of 11 members. The D.C. Treasurer, the Director of the Department of Human Services, and the Director of the Office of Postsecondary Education, Research and Assistance shall serve as ex-officio members of the Board of Directors. The remaining 8 members shall include parents of individuals who qualify to receive trust funds and representatives of organizations who have demonstrated a knowledge of postsecondary education and who reflect a diversity of gender and ethnicity.

(b) The D.C. Treasurer, the Director of the Department of Human Services, and the Director of the Office of Postsecondary Education, Research and Assistance shall serve terms as members of the Board of Directors for the same duration as the terms of their respective offices.

(c) The 8 initial nongovernmental members shall serve the following terms: 2 members shall serve 3 years; 3 members shall serve 2 years; and 3 members shall serve one year.

(d) The 8 initial nongovernmental members shall be appointed by the Mayor.

(e) If one of the 8 initial nongovernmental members is unable to serve or is removed, the remaining members shall select a replacement member according to the representational requirements of subsection (a) of this section.

(f) The Board of Directors shall appoint nongovernmental replacement members so that subsequent Board of Directors meet the representational requirements of subsection (a) of this section and the bylaws adopted by the Board of Directors. A succeeding member shall serve

the balance of the term of the member that he or she succeeds if the term has not expired. A succeeding member who succeeds a member whose term has expired shall serve a term of 3 years. No member shall serve more than 2 consecutive terms, whether partial or full.

(g) Members shall be compensated only for out-of-pocket expenses incurred in the performance of their responsibilities as members of the Board of Directors.

(h) The Board of Directors shall elect a chairperson from among its members. The Board of Directors may elect other officers and form committees as it considers appropriate.

(i) A member may be removed by a 2/3 vote of the remaining members.

Sec. 805. Powers and responsibilities of the Board of Directors.

The Board of Directors shall:

- (1) Administer the Trust Fund;
- (2) File such papers as may be required by the Recorder of Deeds of the District of Columbia;
- (3) Have the power to adopt, amend, or repeal bylaws for operation of the Trust Fund;
- (4) Meet not less than quarterly, at a time to be determined;

- District;
- (5) Assess the needs of postsecondary educational programs in the District;
 - (6) Develop and implement program recommendations to assist residents with the cost of postsecondary education;
 - (7) Develop and implement proposal solicitations and establish criteria for the awarding of grants to assist the postsecondary educational needs of District residents;
 - (8) Review, approve, and monitor the expenditures of the Trust Fund and postsecondary education programs;
 - (9) Provide information to the public about the purpose and work of the Trust Fund;
 - (10) Hire and monitor an executive director for the Trust Fund; and
 - (11) Invite comments and recommendations at least annually from interested postsecondary educational coalitions and community organizations on the Trust Fund's program plans.

Sec. 806. Administration of Trust Fund.

- (a) Administrative expenses shall not exceed 10% of the funds available in the Trust Fund.
- (b) One year after its original formation, the Board of Directors shall develop a District-wide plan for the distribution of funds from the Trust Fund. The Board of Directors shall develop subsequent plans before September 30th of each year. The purpose of the annual plan is to assure that the funds are awarded to needy District residents.
- (c) The Board of Directors shall distribute funds that are generated by the tax check-off system established in D.C. Official Code § 47-1812.11c on a regular schedule, as determined by the Board.
- (d) The Board of Directors shall publish guidelines pursuant to which students who are residents of the District of Columbia may apply for funds to pursue secondary educational opportunities.
- (e) By September 30th of each year, the Board of Directors shall publish an estimated projection of funds generated by the tax check-off based on the income tax returns filed by April 15th of each year.
- (f) The Board of Directors shall submit an annual financial report to the Mayor and the Council no later than March 1st of each year.
- (g) The Board of Directors shall publicize the availability of a tax check-off for students who need postsecondary education assistance. The Mayor shall assist the Board of Directors in educating the public regarding the tax check-off and taxpayer participation in the tax check-off.
- (h) The Board of Directors shall take any necessary steps to encourage the federal government to match the funds generated through the tax check-off.

(i) The Board of Directors may recommend other means to generate funds to assist needy families with postsecondary education opportunities.

(j) The Board of Directors shall encourage collaborative efforts and foster a public-private partnership in the development of postsecondary education programs.

(k) The Board of Directors shall advise the Mayor and the Council on the actions needed to insure effective funding for postsecondary education for needy families.

Sec. 807. Rules of procedure; contributions.

(a) The Board of Directors may develop rules of organization and procedure 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.*).

(b) The Board of Directors shall encourage and is authorized to accept in-kind contributions from public or private agencies.

(c) The Board of Directors shall publish a list of grant awards in an annual report. The Board of Directors shall request the assistance of the media in publicizing to the general public the grant awards.

Sec. 808. Rules.

(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 rules shall include standards for:

(1) The transfer of funds to the Trust Fund; and

(2) The reimbursement of costs incurred by the Mayor in the collection, processing, accounting, or disbursement of the funds generated by the tax check-off.

Sec. 809. Applicability.

The provisions of this title shall apply to any tax year beginning after December 31, 2001.

Sec. 810. Dissolution.

Except as otherwise provided in a contract or legacy transferring or loaning property to the Trust Fund, upon dissolution of the Trust Fund, all remaining assets shall be transferred to the Mayor. The Mayor shall make every effort to use the assets to provide postsecondary education assistance to needy families.

PART B

Sec. 831. Chapter 18 of Title 47 of the District of Columbia Official Code is amended by adding a new section 47-1812.11c to read as follows:

"§ 47-1812.11c. Postsecondary Education Assistance Tax Check-Off.

"(a) There shall be provided on the District of Columbia individual income tax return a voluntary check-off that indicates an individual may contribute a minimum of \$1 to the Postsecondary Education Assistance Trust Fund ("Trust Fund") established pursuant to section 803 of the Postsecondary Education Assistance Trust Fund Tax Check-Off Congressional Review Emergency Act of 2004. The contribution shall reduce any refund owed to the individual taxpayer or increase the taxes owed by the individual taxpayer on the taxpayer's income tax return. The funds generated from the tax check-off shall be earmarked for the Trust Fund except that any cost incurred by the Mayor in the collection, processing, accounting, or disbursement of the funds generated by the tax check-off shall be reimbursed to the Mayor from the funds generated by the tax check-off.

"(b) The funds generated by the tax check-off established by subsection (a) of this section shall be transferred to the Trust Fund pursuant to rules issued by the Mayor that establish timetables and procedures for transfer. Check-off funds shall be transferred to the Trust Fund only after the costs of the Mayor described in subsection (a) of this section are reimbursed.

"(c)(1) Except as provided in paragraph (2) of this subsection, any unpaid District income tax liability on an individual income tax return shall render any voluntary tax check-off election void. Any amount paid for the purpose of contributing to the Trust Fund shall be used first to satisfy any unpaid tax liability, in whole or part.

"(2) Any amount that remains after satisfaction of the unpaid tax liability shall be transferred to the Trust Fund.

"(d) The provisions of this section shall apply to any tax year beginning after December 31, 2001."

TITLE IX. APPROPRIATIONS.

Sec. 901. This act shall be subject to the availability of appropriations.

TITLE X. APPLICABILITY.

Sec. 1001. This act shall apply as of March 13, 2004.

TITLE XI. FISCAL IMPACT STATEMENT.

Sec. 1101. (a) The Council adopts the fiscal impact statement submitted by 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)).

(b) With respect to Title V, the adoption of this act has no fiscal impact.

(c) With respect to Title VIII, the adoption of this act has no fiscal impact because:

(1) All monies generated by the tax check-off, and expended pursuant to the

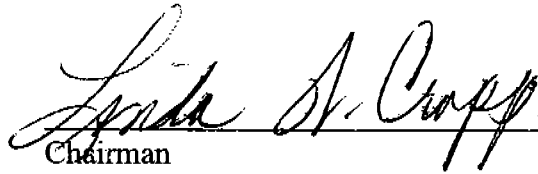
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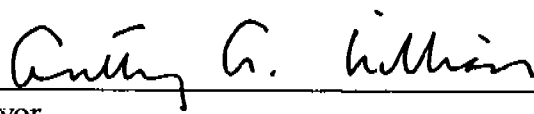
Postsecondary Education Assistance Trust Fund Tax Check-off Congressional Review Emergency Act of 2004, will come from donations by individual taxpayers; and

(2) All administrative cost incurred by the District in collecting, processing, accounting, or disbursing the funds generated by the tax check-off will be paid for by the monies generated by the tax check-off.

TITLE XII. EFFECTIVE DATE.

Sec. 1201. 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
March 18, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-408

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 23, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To require law enforcement agencies to retain case jackets, crime scene examination case files, and evidence from open homicide investigations for 65 years, to require law enforcement agencies to retain case jackets, crime scene examination case files, and evidence from open sexual assault and other violent crime cases for a period of time equal to their statute of limitations, to require that law enforcement agencies retain case jackets and crime scene examination case files for as long as evidence from those investigations is preserved pursuant to the Innocence Protection Act of 2001, to provide for certain requirements related to the disposal of evidence, to establish penalties for violations of this act, and to require the Metropolitan Police Department to issue a records retention schedule consistent with this act; to amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to require the Chief Medical Examiner to retain evidence, records, and files for prescribed periods of time; and to amend the District of Columbia Theft and White Collar Crimes Act of 1982 and An act providing a permanent form of government for the District of Columbia to conform with this act.

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

TITLE I. PRESERVATION OF CRIME INVESTIGATION RECORDS, FILES, AND EVIDENCE

Sec. 101. Definitions.

For the purposes of this title, the term:

- (1) "Biological material" means a sexual assault forensic examination kit, semen, vaginal fluid, blood, saliva, observable skin tissue, or hair which apparently derived from the perpetrator of a crime or, under circumstances that may be probative of the perpetrator's identity, apparently derived from the victim of a crime.
- (2) "Case jacket" means the primary file for an investigation of a crime which contains all of the investigative reports, papers, and documents specific to the investigation, including notes, transcripts of interviews, witness statements, photos, and audio and video tapes.
- (3)(A) "Closed investigation" means the investigation of a crime:
 - (i) In which the suspect or, in a case with multiple suspects, each of the suspects:
 - (I) Has been found or pled guilty and judgment has been entered;
 - (II) Has been found not guilty by reason of insanity;

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(III) Has been found incompetent to stand trial and is not likely to regain competency before the expiration of the statute of limitations;

(IV) Is incarcerated and serving a sentence of either life without release or a term of years that is equivalent to life without release for a crime other than the crime being investigated; or

(V) Has died; or

(ii) In which the United States Attorney for the District of Columbia or the Corporation Counsel for the District of Columbia has declined prosecution on grounds that permanently eliminate all possibility of prosecution and has authorized the return of evidence to the rightful owner.

(B) A law enforcement agency shall consider a crime closed under subparagraph (A)(i)(IV) or (V) of this paragraph only if the United States Attorney for the District of Columbia or the Corporation Counsel for the District of Columbia has certified, for investigations under the prosecutorial jurisdiction of each, that there would be sufficient evidence to prosecute the suspect or suspects if the suspect or suspects were alive or not incarcerated, and declines prosecution on the grounds that the suspect or suspects are dead or incarcerated.

(4) "Crime scene examination case file" means the primary file for an investigation's crime scene which contains investigative documents and reports; toxicology, DNA testing, and other forensic examination results; evidence reports; photographs; and other documents pertaining to the investigation.

(5) "DNA" means deoxyribonucleic acid.

(6) "DNA testing" means forensic DNA analysis of biological material.

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

(8) "Family" means:

(A) A homicide victim's spouse, spouse's parents, domestic partner, children, including biological, step, and adopted, grandchildren, parents, grandparents, stepparents, nieces, nephews, siblings, or half siblings;

(B) A person who is a survivor of a homicide victim and who was primarily dependent upon the victim for care and support at the time of the commission of the homicide, including a child of the victim born after the victim's death; or

(C) A person who is a survivor of a homicide victim and upon whom the victim was primarily dependent for care and support at the time of the commission of the homicide.

(9) "Law enforcement agencies" means the Metropolitan Police Department, the Corporation Counsel for the District of Columbia, prosecutors, or any other governmental agency, with the exception of the Office of the Chief Medical Examiner, that has the authority to investigate, make arrests for, or prosecute or adjudicate District of Columbia criminal or delinquency offenses. The term "law enforcement agencies" shall include law enforcement agencies that have entered into cooperative agreements with the Metropolitan Police Department pursuant to Section 11712 of the Balanced Budget Act of 1997, approved August 5, 1997 (111 Stat. 783; D.C. Official Code § 5-133.17), to the extent the law enforcement agency is acting pursuant to such a cooperative agreement.

(10) "Open investigation" means the investigation of a crime other than those

considered to be closed investigations as described in paragraph (3) of this section.

(11) "Records retention schedule" means a document listing all of the records originating in the Metropolitan Police Department, specifying series of records to be retained permanently, and authorizing on a continued basis the destruction of other series of records after a specified time period has elapsed.

(12) "Statute of limitations" means the time limitations imposed on actions for criminal violations pursuant to D.C. Official Code § 23-113.

Sec. 102. Retention of records and preservation of evidence from open homicide, sexual assault, and violent crime investigations.

(a) In open homicide investigations, law enforcement agencies shall retain case jackets, crime scene examination case files, and any evidence collected during the course of the investigation for 65 years from the date the crime is first reported to the law enforcement agency.

(b) In open investigations of the following crimes, law enforcement agencies shall retain case jackets, crime scene examination case files, and any evidence collected during the course of the investigation for the length of each crime's statute of limitations:

- (1) Assault with intent to kill;
- (2) Aggravated assault;
- (3) Assault on a police officer with a dangerous weapon;
- (4) Burglary;
- (5) Mayhem;
- (6) Malicious disfigurement;
- (7) Sexual abuse and sex offenses; and
- (8) Any crime of violence, as that term is defined in section 1 of 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 the rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-4501) ("Act"), that is committed while armed, as that term is described in section 2 of the Act.

(c) Evidence preserved pursuant to subsections (a) and (b) of this section shall be preserved in such a manner, including if necessary by refrigeration, as to maintain the ability to conduct forensic testing, including DNA testing.

(d) Law enforcement agencies shall not be required to preserve evidence pursuant to subsections (a) and (b) of this section that is of such a size, bulk, or physical character as to render retention impracticable. If practicable, law enforcement agencies shall remove and preserve portions of evidence if such portions contain sufficient evidence to permit future DNA or other forensic testing. When it is not practicable to preserve evidence pursuant to this subsection, law enforcement agencies shall photograph the evidence before disposing of it. When it is not practicable to preserve evidence in its entirety but portions of it are preserved pursuant to this subsection, law enforcement agencies shall photograph the evidence:

- (1) Prior to removing portions of the evidence; and
- (2) After removing portions of the evidence and before disposing of it.

(e) Photographs of evidence created pursuant to subsection (d) of this section shall be retained in the crime scene examination case files of the corresponding investigation.

(f) In closed investigations of the following crimes, law enforcement agencies shall retain case jackets and crime scene examination case files for as long as evidence is preserved

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for those investigations pursuant to the Innocence Protection Act of 2001, effective May 17, 2002 (D.C. Law 14-134; D.C. Official Code § 22-4031 *et seq.*):

- (1) Homicides;
- (2) Assault with intent to kill;
- (3) Aggravated assault;
- (4) Burglary;
- (5) Assault on a police officer with a dangerous weapon;
- (6) Mayhem;
- (7) Malicious disfigurement;
- (8) Sexual abuse and sex offenses; and
- (9) Any crime of violence, as that term is defined in section 1 of 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 the rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-4501) ("Act"), that is committed while armed, as that term is described in section 2 of the Act.

(g) Case jackets, crime scene examination case files, and evidence from open and closed homicide investigations shall not, under any circumstance, be destroyed or disposed of without the written approval of the Chief or the Property Clerk of the Metropolitan Police Department and without prior written approval of the United States Attorney for the District of Columbia, for investigations under the prosecutorial jurisdiction of the United States Attorney, and the Corporation Counsel for the District of Columbia, for investigations under the prosecutorial jurisdiction of the Corporation Counsel.

(h) Nothing in this section shall prohibit law enforcement agencies from:

- (1) Combining case jackets and crime scene examination files into one file;
- (2) Destroying duplicative copies of a record or document; or
- (3) Storing case jackets and crime scene investigation files electronically, so

long as electronic storage will not compromise the admissibility of the records or documents.

(i) Nothing in this section shall be construed as a requirement that a law enforcement agency shall collect a particular item of evidence, in whole or in part.

Sec. 103. Penalties; private right of action.

(a) Whoever willfully or maliciously destroys, alters, conceals, or tampers with evidence or records that are being preserved and retained in accordance with this title shall be subject to:

- (1) Administrative sanctions, if the individual is an employee of the District of Columbia government, up to and including termination; and
- (2) A fine of not more than \$5,000, imprisonment for not more than one year, or both.

(b) Whoever willfully or maliciously destroys, alters, conceals, or tampers with evidence or records that are being preserved and retained in accordance with this title may be the subject of a civil action brought in the Superior Court of the District of Columbia by the family of a victim of homicide or by the victim of a crime enumerated in section 102(b) or (f). The civil action may be brought against the District of Columbia government employee or employees responsible, or against the District of Columbia if a pattern of violations of this section can be established.

(c) Subsection (b) of this section shall only apply to the willful or malicious destruction,

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alteration, concealment, or tampering with evidence or records that occurs on or after the effective date of this title.

Sec. 104. Records retention schedule.

The Metropolitan Police Department shall issue a records retention schedule, in the form of a general order, consistent with this title.

TITLE II. OFFICE OF CHIEF MEDICAL EXAMINER PRESERVATION OF RECORDS, FILES, AND EVIDENCE.

Sec. 201. The Establishment of the Office of the Chief Medical Examiner Act of 2000, effective October 20, 2000 (D.C. Law 13-172; D.C. Official Code § 5-1401 *et seq.*), is amended as follows:

(a) Section 2909(a) (D.C. Official Code § 5-1408(a)) is amended by adding a new sentence at the end to read as follows:

Amend
§ 5-1408

"The regulations shall include requirements on the length of time evidence shall be preserved by the CME, and shall require that toxicology and histology specimens be preserved for periods of time consistent with the accreditation requirements of the National Association of Medical Examiners."

(b) Section 2913 (D.C. Official Code § 5-1412) is amended by adding a new subsection (a-1) to read as follows:

Amend
§ 5-1412

"(a-1) Records and files related to an open investigation of a homicide shall be retained for 65 years from the date the CME initiates its investigation of the homicide. Other records and files maintained under subsection (a) of this section shall be retained by the CME for periods of time established by regulations issued pursuant to section 2918. For the purposes of this subsection, the term "open investigation" shall have the same meaning as provided in section 101(10) of the Millicent Allewelt Amendment Act of 2004, passed on 2nd reading on March 2, 2004 (Enrolled version of Bill 15-34)."

TITLE III. CONFORMING AMENDMENTS

Sec. 301. Section 503(b) 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 § 22-723(b)), is amended to read as follows:

Amend
§ 22-723

"(b) Any person convicted of tampering with physical evidence shall be fined not more than \$5,000, imprisoned for not more than 3 years, or both."

Sec. 302. Section 6 of An act providing a permanent form of government for the District of Columbia, approved June 11, 1878 (20 Stat. 107; D.C. Official Code § 5-113.07), is amended to read as follows:

Amend
§ 5-113.07

"All records of the Metropolitan Police Department shall be preserved, except that the Mayor, upon recommendation of the Chief of the Metropolitan Police Department and only pursuant to the Millicent Allewelt Amendment Act of 2004, passed on 2nd reading on March 2, 2004 (Enrolled version of Bill 15-34), may cause records which the Metropolitan Police Department considers to be obsolete or of no further value to be destroyed."

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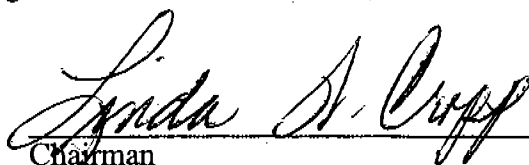
TITLE IV. FISCAL IMPACT; EFFECTIVE DATE.

Sec. 401. 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)).

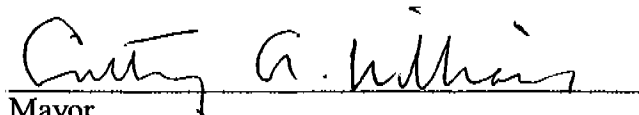
Sec. 402. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman

Council of the District of Columbia



Mayor

District of Columbia

APPROVED

March 23, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-409

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 18, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To establish procedures for the control of public health nuisances relating to vector-borne infectious diseases including prohibiting certain activities that increase the probability that standing, untreated water could develop on a property and create a public health nuisance, authorizing the Mayor to inspect property to determine whether a public health nuisance exists, authorizing the Mayor to take corrective action to abate a public health nuisance, establishing a fund to cover the costs of corrective actions to abate public health nuisances, providing penalties for violations of this act, and requiring the Mayor to issue rules to implement this act, and to repeal unnecessary regulations pertaining to standing water on property.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Vector-Borne Infectious Diseases Control Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Abate" means to eliminate a public health nuisance, or to reduce the degree or intensity of a public health nuisance.

(2) "District" means the District of Columbia.

(3) "Person" means any individual; partnership; corporation, including a government corporation; trust association; firm; joint stock company; organization; commission; the District or federal government; or any other entity.

(4) "Property" means land, including any water thereon, and improvements to land.

(5) "Public health nuisance" means:

(A) Any property, including water, that supports the development, attraction, or harborage of vectors;

(B) Any property that has a vessel, container, or other structure holding water that provides a breeding place for vectors; or

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(C) Any activity that supports the development, attraction, or harborage of vectors, or that facilitates the introduction or spread of vectors.

(6) "Vector" means any animal capable of transmitting the causative agent of human or animal disease or capable of producing human discomfort or injury, including mosquitoes, flies, mites, ticks, or other arthropods.

Sec. 3. Prohibited activities.

(a) No person shall:

- (1) Cause or allow the open dumping of any tire;
- (2) Cause or allow the open burning of any tire;
- (3) Cause or allow the storage of any tire unless the owner or operator of the property where the tire is stored takes measures to prevent the tire from accumulating water by covering or altering the tire; or
- (4) Cause or allow a tire to be used in playground equipment unless the tire is altered to prevent the accumulation of water.

(b) No person shall cause or allow standing water on property unless the person takes measures to prevent the breeding or harborage of vectors, including the following:

- (1) Draining or replacing water frequently enough to prevent vector breeding;
- (2) Keeping swimming pools and other open waters used for bathing or swimming sufficiently chlorinated to prevent vector larva from hatching;
- (3) Covering water-bearing containers with fine netting to prevent access by vectors; or
- (4) Applying larvicide to the standing water.

Sec. 4. Inspection.

(a) The Mayor, acting on the Mayor's own information or observation, or on the information or observation of another person, may inspect occupied or vacant property to investigate an allegation of a public health nuisance.

(b) Upon the presentation of appropriate credentials to the owner or occupant of the property, the Mayor shall conduct the inspection during reasonable times and in a reasonable manner.

(c) If the owner or occupant of the property denies the Mayor access for the purposes of this section, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(d) If, as a result of an inspection, the Mayor determines that a public health nuisance exists, the Mayor may order the owner or occupant to take appropriate action to abate the public health nuisance in accordance with section 6.

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Sec. 5. Prima facie evidence of a public health nuisance.

The presence of vectors in their developmental stages on a property, or in a vessel, container, or other structure on a property, shall be prima facie evidence of a public health nuisance.

Sec. 6. Abatement of a public health nuisance.

(a) When the Mayor determines that a public health nuisance exists on a property, the Mayor shall issue a notice of violation to the person alleged to have created the public health nuisance or the owner or occupant of the property. The Mayor may serve the notice of violation on the owner, occupant, or any other responsible person at the premises, deliver the notice of violation by prepaid mail, return receipt requested to the owner or occupant of the property, or post the notice in a conspicuous place on the property in violation. The notice of violation shall include the following:

- (1) The location, date, and time that the public health nuisance took place or that the Mayor investigated the public health nuisance;
- (2) The nature of the public health nuisance;
- (3) The time, not later than 10 days, within which the public health nuisance shall be abated;
- (4) The specific corrective actions the owner or occupant shall take to abate the public health nuisance; and
- (5) A statement that failure to abate the public health nuisance shall constitute a violation of this act, with each day of violation constituting a separate offense.

(b) Upon receipt of a notice of violation, the person responsible for the property shall abate the public health nuisance within the time specified in the notice of violation. The Mayor may grant additional time to abate the public health nuisance upon a request from the responsible person and a good faith showing that the person has made an effort to abate the public health nuisance and that a longer time for abatement is necessary.

Sec. 7. Corrective actions by District to abate a public health nuisance.

(a) Subject to the availability of appropriations, the Mayor may undertake actions to correct certain health hazards that have resulted from the development, attraction, or harborage of vectors, including cleanup, abatement, and preventive measures, if the following conditions exist:

- (1) The District needs to take an action in order to protect human health; and
- (2) One or more of the following conditions exist:
 - (A) The action is required to protect public space;
 - (B) No person can be found who is the owner of the property in question, and is capable of proper implementation of the required corrective action within 30 days of the posting of notice on the property in question that violation of this act has occurred, or shorter period, if so determined by the Mayor, as may be necessary to protect human health;

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(C) A situation exists that requires immediate action by the Mayor to protect human health; or

(D) The responsible party has failed or refused to comply within 30 days of a mayoral order for compliance.

(b) If the District incurs costs for undertaking any corrective or enforcement action to abate development, attraction, or harborage of vectors, all parties found to be liable by the Mayor shall be jointly and severally liable to the District government for the costs incurred by the District. In addition to any other enforcement action, the Mayor may assess any reasonable costs for correcting the condition and any related expenses as a tax against the property, carry the tax on the regular tax rolls, and collect the tax in the same manner as real estate taxes are collected.

Sec. 8. Vector-Borne Infectious Diseases Control Fund.

(a) There is established the Vector-Borne Infectious Diseases Control Fund ("Fund") as a nonlapsing, revolving fund, to be administered by the Mayor as an agency fund as defined in section 373(2)(I) of Title 47 of the District of Columbia Official Code, to be used exclusively for the purposes stated in subsection (b) of this section.

(b) Disbursements from the Fund may be used by the District to undertake actions to correct certain public health hazards that have resulted from the harborage of vectors, including cleanup, abatement, and preventive measures, in accordance with section 7(a), and to cover the administrative and operational costs incurred by the District in the implementation of the corrective actions..

(c) The Fund shall be financed through fines, civil penalties, costs and judgments recovered; and monies received as reimbursement by the District government pursuant to this act and regulations promulgated by the Mayor.

(d) The Fund shall be accounted for under procedures established pursuant to subchapter V of Chapter 3 of Title 47 of the District of Columbia Official Code.

(e) Nothing in this section shall be construed to make the District government responsible for corrective action costs to any person in excess of the monies in the Fund.

Sec. 9. Penalties.

A violation of this act or the rules issued under authority of this act shall be a civil infraction for the purposes of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*) ("Civil Infractions Act"). Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this act, or the rules issued under authority of this act, pursuant to Titles I-III of the Civil Infractions Act. Adjudication of any infraction shall be pursuant to Titles I-III of the Civil Infractions Act.

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Sec. 10. Rules.

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 act.

Sec. 11. Repealer.

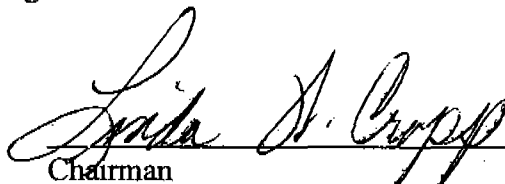
Subsections 106.1 and 106.2 of Title 22 of the District of Columbia Municipal Regulations (Public Health and Medicine) are repealed.

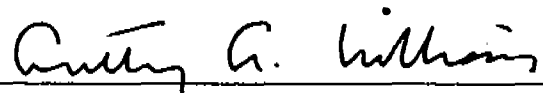
Sec. 12. Fiscal impact statement.

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. 13. 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
March 18, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-410

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 24, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.West Group
Publisher

To establish the AccessRx program, to require drug manufacturers and labelers that sell prescription drugs in the District through a publicly funded pharmaceutical assistance program to enter into rebate agreements with the District, to require the Director of the Department of Health to negotiate the amount of the rebate, to provide for reimbursement to participating retail pharmacies for the amount of the discount, to provide for the calculation of the rebate amount and any discrepancies between the Department and the manufacturer or labeler, to publicize the names of manufacturers and labelers who do and do not enter into rebate agreements, to impose prior authorization requirements as permitted by law to encourage participation in AccessRx, to establish the AccessRx Fund as a nonlapsing fund to receive rebate payments from manufacturers and labelers and any appropriations and to reimburse pharmacies for discounts, to provide the method of prescribing or ordering drugs, to establish the basic and supplemental components of AccessRx, to allow the Department of Health to contract with a third party for the administration of AccessRx and to seek any waivers of federal law necessary to implement AccessRx, to require the Department of Health to submit an annual report to the Council on the enrollment and financial status of AccessRx, to permit the District to negotiate and enter into purchasing alliances with other jurisdictions and public and private entities, to require the Department of Health to conduct an AccessRx program for low-income elderly District residents, to establish eligibility for low-income elderly, to establish the amount of payment to be made by low-income elderly for the basic and supplemental components of AccessRx, to require the Department of Health to conduct an AccessRx program for uninsured District residents, to establish eligibility for uninsured District residents, to provide that the Department of Health establish discounted prices for uninsured qualified residents for drugs covered by rebate agreements, to establish transparent business practice requirements for pharmacy benefits managers with regard to conflicts of interest, the dispensation of substitute prescription drugs, and their relationships with a covered entity, to require manufacturers and labelers who dispense drugs in the District to disclose and report all of their marketing costs, with some exceptions, to the Department of Health, to require the Department of Health to provide an annual report to the Council

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and the Corporation Counsel on prescription drug marketing expenses, to provide that the information submitted by manufacturers and labelers is confidential, and to provide for civil enforcement for noncompliance by manufacturers and labelers with the marketing expense report requirement.

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

TITLE I. ACCESSRx.

SUBTITLE A. AccessRx - In General.

Sec. 101. Findings and declaration of intent.

The Council finds that:

(1) Affordability is critical in providing access to prescription drugs for District of Columbia residents.

(2) AccessRx enables the District to take steps to make prescription drugs more affordable for qualified District residents, thereby increasing the overall health of District residents, promoting healthy communities, and protecting the public health and welfare.

(3) AccessRx can be integrated with any District-wide program for the uninsured.

(4) The intent of AccessRx is not to discourage employers from offering or paying for prescription drug benefits for their employees or to replace employer-sponsored prescription drug benefit plans that provide benefits comparable to those made available to qualified District residents under AccessRx.

Sec. 102. Definitions.

For the purposes of this act, the term:

(1) "AccessRx" means the District of Columbia AccessRx program established by section 103.

(2) "Average wholesale price" means the wholesale price charged for a specific commodity that is assigned by the drug wholesaler and is listed in a nationally recognized drug pricing registry that is updated daily and charged to the retail pharmacy.

(3) "Basic component of AccessRx" includes the provision of drugs and medications for cardiac conditions and high blood pressure, diabetes, arthritis, anticoagulation, hyperlipidemia, osteoporosis, chronic obstructive pulmonary disease and asthma, incontinence, thyroid diseases, glaucoma, Parkinson's disease, multiple sclerosis, amyotrophic lateral sclerosis, and other conditions approved by the Department. The term "basic component of AccessRx" shall also include the provision of over-the-counter medications that are prescribed by a health care provider and approved as cost-effective by the Department.

(4)(A) "Covered entity" means:

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(i) Any hospital or medical service organization, insurer, health coverage plan, or health maintenance organization licensed in the District that contracts with another entity to provide prescription drug benefits for its customers or clients;

(ii) Any health program administered by the Department or the District in its capacity as provider of health coverage; or

(iii) Any employer, labor union, or other group of persons organized in the District that contracts with another entity to provide prescription drug benefits for its employees or members.

(B) The term "covered entity" does not include a health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, Medicare supplement, disability income, long-term care, or other limited benefit health insurance policies and contracts.

(5) "Covered individual" means a member, participant, enrollee, contract holder, policy holder, or beneficiary of a covered entity who is provided a prescription drug benefit by the covered entity. The term "covered individual" includes a dependent or other person provided a prescription drug benefit through a policy, contract, or plan for a covered individual.

(6) "Department" means the Department of Health.

(7) "Director" means the Director of the Department of Health.

(8) "District" means the District of Columbia.

(9) "Generic drug" means a chemically equivalent copy of a brand-name drug with an expired patent.

(10) "Initial discounted price" for a drug means the price the Department pays D.C. Medicaid participating retail pharmacies for that drug for District of Columbia Medicaid recipients.

(11) "Labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 C.F.R. § 207.20.

(12) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

(13) "Marketing" means advertising and promotional activities, including, but not limited to, the activities described in section 303.

(14) "National Drug Code registration number" means the number registered for a drug pursuant to the listing system established by the United States Food and Drug Administration under section 510 of the Federal Food, Drug, and Cosmetic Act, approved October 10, 1962 (76 Stat. 794; 21 U.S.C. § 360).

(15) "Participating retail pharmacy" or "retail pharmacy" means a retail pharmacy located in the District, or another business licensed to dispense prescription drugs in the District, that participates in the program.

(16) "Pharmacy benefits management" means a service provided to covered

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entities to facilitate the provision of prescription drug benefits to covered individuals, including negotiating pricing and other terms with drug manufacturers and retail pharmacies. "Pharmacy benefits management" may include any or all of the following:

- (A) Claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to covered individuals;
- (B) Clinical formulary development and management services;
- (C) Rebate contracting and administration;
- (D) Certain patient compliance, therapeutic intervention, and generic substitution programs; and
- (E) Disease management programs.

(17) "Pharmacy benefits manager" means an entity that performs pharmacy benefits management. The term "pharmacy benefits manager" includes a person or entity acting for a pharmacy benefits manager in a contractual or employment relationship in the performance of pharmacy benefits management for a covered entity.

(18) "Qualified resident" means a resident of the District who is eligible for the AccessRx program pursuant to this title.

(19) "Secondary discounted price" means the initial discounted price minus any further discounts paid for out of the AccessRx Fund.

(20) "Supplemental component of AccessRx" includes all prescription drugs and medications provided under the D.C. Medicaid program excluding those provided pursuant to the basic component of AccessRx.

Sec. 103. Establishment of AccessRx.

(a) AccessRx is hereby established. AccessRx shall be administered by the Department, which shall utilize, among other things, manufacturer rebates, pharmacy discounts, and aggregate purchasing to reduce prescription drug prices. In addition, the Department shall investigate the purchase of prescription drugs from outside of the United States.

(b) The Department shall administer AccessRx and other medical and pharmaceutical assistance programs in a manner that is advantageous to the programs and to the enrollees in those programs. In implementing this title, the Department may coordinate the other programs and AccessRx and may take actions to enhance efficiency, reduce the cost of prescription drugs, and maximize the benefits to the programs and enrollees, including providing the benefits of AccessRx to enrollees in other programs.

Sec. 104. Cost containment and savings with respect to existing publicly funded pharmaceutical programs.

The Department shall make every effort to reduce and contain the cost of prescription drugs purchased for publicly funded pharmaceutical assistance programs, including D.C. Medicaid, the D.C. Health Care Alliance, and the Department of Mental Health. These efforts

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shall include manufacturer rebates, pharmacy discounts, and reductions through aggregate purchases, and may include importation of pharmaceuticals from outside of the United States. These savings shall be deposited in the AccessRx Fund established in section 110.

Sec. 105. Rebate agreement.

A drug manufacturer or labeler that sells prescription drugs in the District through any publicly funded pharmaceutical assistance program shall enter into a rebate agreement with the Department under AccessRx. The rebate agreement shall require the manufacturer or labeler to make rebate payments to the District for deposit in the AccessRx Fund each calendar quarter or according to a schedule established by the Department.

Sec. 106. Rebate amount.

(a) The Director of the Department shall negotiate the amount of the rebate required from a manufacturer or labeler in accordance with this title.

(b) The Director shall take into consideration the rebate calculated under the Medicaid Rebate Program pursuant to section 1927 of the Social Security Act, approved November 5, 1990 (104 Stat. 1388-143; 42 U.S.C. § 1396r-8) ("42 U.S.C. § 1396r-8"), the average wholesale price of prescription drugs, and any other information on prescription drug prices and price discounts.

(c) The Director shall use the Director's best efforts to obtain an initial rebate amount equal to or greater than the rebate calculated under the Medicaid program pursuant to 42 U.S.C. § 1396r-8.

(d) With respect to the rebate that takes effect on October 1, 2005 pursuant to section 133(d), the Director shall use the Director's best efforts to obtain an amount equal to or greater than the amount of any discount, rebate, or price reduction for prescription drugs provided to the federal government. If the Department is not able to achieve the rebate amount described by this subsection, the Department shall report that fact to the standing committee of the Council having jurisdiction over the Department.

Sec. 107. Operation of program.

(a) Participating retail pharmacies shall submit claims to the Department to verify the amount charged to qualified residents and to receive reimbursement.

(b) The Department shall not impose transaction charges on participating retail pharmacies that submit claims or receive payments under AccessRx.

(c) On a periodic basis, to be established by the Department, the Department shall reimburse a participating retail pharmacy for:

(1) The discounted price provided to uninsured qualified residents pursuant to section 133; and

(2) Prescription drugs dispensed to low-income elderly pursuant to section 123.

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(d) The Department shall conduct ongoing quality assurance activities similar to those used in the D.C. Medicaid program.

(e) The Department shall collect utilization data from participating retail pharmacies submitting claims necessary to calculate the amount of the rebate from the manufacturer or labeler. The Department shall protect the confidentiality of all information subject to confidentiality protection under District or federal law, rule or regulation.

Sec. 108. Discrepancies in rebate amounts.

(a) (1) Upon receipt of the data from the Department, the manufacturer or labeler shall calculate the quarterly payment. If a discrepancy is discovered, the Department may, at its expense, hire a mutually agreed-upon independent auditor to verify the manufacturer's calculation. If a discrepancy is still found, the manufacturer or labeler shall justify its calculation or make payments to the Department for any additional amount due. The manufacturer or labeler

may, at its expense, hire a mutually agreed-upon independent auditor to verify the accuracy of the utilization data provided by the Department. If a discrepancy is discovered, the Department shall justify its data or refund any excess payment to the manufacturer or labeler.

(2) If the dispute over the rebate amount is not resolved, a request for a hearing with supporting documentation shall be submitted to the Office of Administrative Hearings. Failure to resolve the dispute may be cause for terminating the drug rebate agreement and denying payment to the manufacturer or labeler for any drugs.

(b) All prescription drugs of a manufacturer or labeler that enters into a rebate agreement that appear on the list of approved drugs shall be immediately available and the cost of the drugs shall be reimbursed, except as provided in this section.

Sec. 109. Action with regard to nonparticipating manufacturers and labelers.

(a) The names of manufacturers and labelers who do and do not enter into rebate agreements pursuant to this title are public information. The Department shall release this information to health care providers and the public on a regular basis. The Department also shall publicize participation by manufacturers and labelers that is of particular benefit to the public.

(b) The Department shall impose prior authorization requirements, as permitted by law, in all publicly funded pharmaceutical assistance programs to the extent the Department determines it is appropriate to do so in order to encourage manufacturer and labeler participation in AccessRx, as long as the additional prior authorization requirements remain consistent with the goals of the D.C. Medicaid program and Title 19 of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*).

Sec. 110. AccessRx Fund.

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(a) The AccessRx Fund is established as a nonlapsing, dedicated fund, into which shall be deposited revenue from manufacturers and labelers that pay rebates pursuant to this title and any appropriations or allocations designated for the AccessRx Fund, along with accruing interest, to be used for the purposes specified in subsection (b) of this section.

(b) All funds in the AccessRx Fund, including any surplus or interest, shall be used to:

- (1) Reimburse retail pharmacies for discounted prices provided to uninsured qualified residents pursuant to 133;
- (2) Pay benefits described in section 123; and
- (3) Reimburse the Department for contracted services, including pharmacy claims processing fees, administrative and associated computer costs, and other reasonable program costs.

(c) The funds deposited in the AccessRx Fund shall not revert to the General Fund but shall continually be available for the uses designated in subsection (b) of this section, subject to authorization by Congress in an appropriations act.

Sec. 111. Eligibility procedures.

The Department shall:

- (1) Establish simplified procedures for determining eligibility and issuing AccessRx enrollment cards to qualified residents;
- (2) Undertake outreach efforts to build public awareness of AccessRx and maximize enrollment of qualified residents; and
- (3) Adjust the requirements and terms of AccessRx to accommodate any new federally funded prescription drug program.

Sec. 112. Method of prescribing or ordering drugs.

The method of prescribing or ordering drugs may include, but is not limited to, the use of standard or larger prescription refill sizes in order to minimize operational costs and maximize economy. Unless the prescribing physician indicates otherwise, the use of the lowest cost generic or chemically equivalent drugs is required; provided, that these drugs are of the same quality and have the same mode of delivery as is provided to the general public, consistent with good pharmaceutical practice.

Sec. 113. Third-party administration.

The Department may contract with one or more third parties to administer any or all components of AccessRx, including outreach, eligibility, claims, administration, and rebate recovery and redistribution.

Sec. 114. Waivers.

The Department may seek any waivers of federal law, rule or regulation necessary to

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implement the provisions of this act.

Sec. 115. Annual summary report.

The Department shall submit a written report on the enrollment and financial status of AccessRx to the Council by the 2nd week of January each year.

Sec. 116. Agreements with governments of other jurisdictions and other entities.

The District may negotiate and enter into purchasing alliances and regional strategies with the governments of other jurisdictions, and with other public and private entities, for the purpose of reducing prescription drug prices for residents of the District.

Sec. 117. Rulemaking.

The Mayor is authorized to issue any rules necessary to implement the provisions of this title.

SUBTITLE B. ACCESSRx FOR THE ELDERLY.

Sec. 121. Establishment of AccessRx for the low-income elderly.

(a) The Department shall conduct a program to provide low-cost prescription and nonprescription drugs, medications, and medical supplies to low-income elderly individuals ("AccessRx for low-income elderly").

(b) The Director shall provide sufficient personnel to ensure efficient administration of the program. The extent and magnitude of the program shall be determined by the Director on the basis of the calculated need of the recipient population and the available funds.

(c) The Department may not spend more on this program than is available through appropriations from the General Fund, dedicated revenue, federal or other grants, and other established and committed funding sources. The Director may accept, for the purpose of carrying out this program:

(1) Federal funds appropriated under any federal law relating to the furnishing of free or low-cost drugs to elderly individuals, and may take such action as is necessary for the purposes of carrying out that federal law; and

(2) Funds that may be available from any other agency of government, individual, group, or corporation.

Sec. 122. Eligibility for low-income elderly.

To be eligible, an individual shall:

(1) Be a resident of the District;

(2) Be at least 62 years of age; and

(3) Have a household income that is not more than 200% of the federal poverty level.

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Sec. 123. Payment for drugs by low-income elderly.

(a) The Director shall establish the amount of payment to be made by eligible low-income elderly individuals toward the cost of prescription or nonprescription drugs, medications, and medical supplies furnished under AccessRx for low-income elderly; provided, that:

(1) The total cost paid by the low-income elderly individual for any covered purchase of a prescription or nonprescription drug or medication provided under the basic component of AccessRx does not exceed 20% of the price allowed for that prescription under AccessRx rules, or \$2, whichever is greater; and

(2) For the supplemental component of AccessRx, except as otherwise provided in this section, the total cost paid by the low-income elderly individual for any covered purchase of a prescription drug or medication shall not exceed 50% of the price allowed for that prescription under AccessRx.

(b) Prior to January 1, 2006, the Director shall establish annual limits on the costs incurred by eligible household members for prescription or nonprescription drugs or medications covered under AccessRx for low-income elderly. After the annual limits have been established, beginning on January 1, 2007, AccessRx for low-income elderly shall pay 80% of the cost of all prescription or nonprescription drugs or medications covered by the supplemental component of AccessRx. The limits shall be set by the Director by regulation as necessary to operate the program within the AccessRx for low-income elderly budget.

SUBTITLE C. ACCESSRx FOR UNINSURED RESIDENTS OF THE DISTRICT OF COLUMBIA.

Sec. 131. Establishment of AccessRx for uninsured District residents.

The Department shall conduct a program to negotiate low-cost prescription and nonprescription drugs, medications, and medical supplies for uninsured District residents ("AccessRx for uninsured"). The Director shall provide sufficient personnel to ensure efficient administration of the program. The extent and magnitude of the program shall be determined by the Director on the basis of the calculated need of the recipient population and available funds.

Sec. 132. Eligibility of the uninsured.

To be eligible, an individual shall:

- (1) Be a resident of the District;
- (2) Have a household income that is not more than 350% of the federal poverty level; and
- (3) Not be enrolled in any public or private medical insurance program.

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Sec. 133. Discounted prices for uninsured qualified residents.

(a) Any participating retail pharmacy that sells prescription drugs covered by a rebate agreement pursuant to section 105 of this title shall discount the retail price of those drugs sold to uninsured qualified residents.

(b) The Department shall establish discounted prices for drugs covered by a rebate agreement and shall promote the use of efficacious and reduced-cost drugs, taking into consideration reduced prices for state and federally capped drug programs, differential dispensing fees, administrative overhead, and incentive payments.

(c) Beginning January 1, 2005, a participating retail pharmacy shall offer the initial discounted price.

(d) Beginning no later than October 1, 2005, a participating retail pharmacy shall offer the secondary discounted price, if available.

TITLE II. TRANSPARENT BUSINESS PRACTICES AMONG PHARMACY BENEFITS MANAGERS.

Sec. 201. Fiduciary duty.

(a) A pharmacy benefits manager owes a fiduciary duty to a covered entity and shall discharge that duty in accordance with all applicable laws. In performance of that duty, a pharmacy benefits manager shall adhere to the practices set forth in this section.

(b) (1) A pharmacy benefits manager shall:

(A) Perform its duties with care, skill, prudence, and diligence and in accordance with the standards of conduct applicable to a fiduciary in an enterprise of a like character and with like aims;

(B) Discharge its duties with respect to the covered entity for the primary purpose of providing benefits to covered individuals and defraying reasonable expenses incurred; and

(C) Notify the covered entity in writing of any activity, policy or practice of the pharmacy benefits manager that directly or indirectly presents any conflict of interest with the duties imposed by this title; and

(2) A pharmacy benefits manager that receives from any drug manufacturer or labeler any payment or benefit of any kind in connection with the utilization of prescription drugs by covered individuals, including payments or benefits based on volume of sales or market share, shall pass that payment or benefit on in full to the covered entity. This provision does not prohibit the covered entity from agreeing by contract to compensate the pharmacy benefits manager by returning a portion of the benefit or payment to the pharmacy benefits manager.

(c)(1) Upon request by a covered entity, a pharmacy benefits manager retained by that covered entity shall:

(A) Provide information showing the quantity of drugs purchased by the

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covered entity and the net cost to the covered entity for the drugs. This information shall include all rebates, discounts, and other similar payments. If requested by the covered entity, the pharmacy benefits manager shall provide such quantity and net cost information on a drug-by-drug basis by National Drug Code registration number rather than on an aggregated basis; and

(B) Disclose to the covered entity all financial terms and arrangements for remuneration of any kind that apply between the pharmacy benefits manager and any prescription drug manufacturer or labeler, including, without limitation, formulary management and drug-substitution programs, educational support, claims processing, and data sales fees.

(2) A pharmacy benefits manager providing information to a covered entity under this section may designate that information as confidential. Information designated as confidential may not be disclosed by the covered entity to any other person or entity without the consent of the pharmacy benefits manager, unless ordered by a court of the District for good cause shown.

(d) The following provisions apply to the dispensation of a substitute prescription drug for a prescribed drug to a covered individual:

(1) The pharmacy benefits manager may substitute a lower-priced therapeutically equivalent drug for a higher-priced prescribed drug.

(2) If the substitute drug costs more than the prescribed drug, the substitution shall be made for medical reasons that benefit the covered individual. If a substitution is being made under this paragraph, the pharmacy benefits manager shall obtain the approval of the prescribing health professional or that person's authorized representative after disclosing to the covered individual and the covered entity the cost of both drugs and any benefit or payment directly or indirectly accruing to the pharmacy benefits manager as a result of the substitution.

(3) The pharmacy benefits manager shall transfer in full to the covered entity any benefit or payment received in any form by the pharmacy benefits manager as a result of a prescription drug substitution under paragraphs (1) or (2) of this subsection.

Sec. 202. Compliance.

Compliance with the requirements of this title is required in all contracts between a pharmacy benefits manager and a covered entity executed after the effective date of this act.

Sec. 203. Enforcement.

A violation of this title is a violation of the District of Columbia Consumer Protection Procedures Act, effective July 22, 1976 (D.C. Law 1-76; D.C. Official Code § 28-3901 *et seq.*), for which a fine of not more than \$10,000 may be adjudged.

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TITLE III. FULL DISCLOSURE OF PRESCRIPTION DRUG MARKETING COSTS.

Sec. 301. Requirement to disclose prescription drug marketing costs.

A manufacturer or labeler of prescription drugs dispensed in the District that employs, directs, or utilizes marketing representatives in the District shall report marketing costs for prescription drugs in the District. These marketing costs shall be reported to the Department for the purposes of assisting the District in its role as a purchaser of prescription drugs and as an administrator of prescription drug programs, enabling the District to determine the scope of prescription drug marketing costs and their effect on the cost, utilization, and delivery of health care services, and furthering the role of the District as guardian of the public interest.

Sec. 302. Manner of reporting.

By July 1st of each year, a manufacturer or labeler of prescription drugs that directly or indirectly distributes prescription drugs for dispensation to residents of the District shall file a report with the Department in the form and manner provided by the Department. The report shall be accompanied by payment of a fee, as set by the Department in rule, to support the work of the Department under this title.

Sec. 303. Content of annual report by manufacturer or labeler.

(a) Except as provided in subsection (b) of this section, the annual report filed pursuant to section 302 shall include the following information as it pertains to marketing activities conducted within the District in a form that provides the value, nature, purpose, and recipient of the expense:

(1) All expenses associated with advertising, marketing, and direct promotion of prescription drugs through radio, television, magazines, newspapers, direct mail, and telephone communications as they pertain to District residents;

(2) With regard to all persons and entities licensed to provide health care in the District, including health care professionals and persons employed by them in the District, carriers licensed under Title 31, health plans and benefits managers, pharmacies, hospitals, nursing facilities, clinics, and other entities licensed to provide health care in the District, the following information:

(A) All expenses associated with educational or informational programs, materials, and seminars, and remuneration for promoting or participating in educational or informational sessions, regardless of whether the manufacturer or labeler provides the educational or informational sessions or materials;

(B) All expenses associated with food, entertainment, gifts valued at more than \$25, and anything provided to a health care professional for less than market value;

(C) All expenses associated with trips and travel; and

(D) All expenses associated with product samples, except for samples that will be distributed free of charge to patients; and

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(3) The aggregate cost of all employees or contractors of the manufacturer or labeler who directly or indirectly engage in the advertising or promotional activities listed in paragraphs (1) and (2) of this subsection, including all forms of payment to those employees. The cost reported under this paragraph shall reflect only that portion of payment to employees or contractors that pertains to activities within the District or to recipients of the advertising or promotional activities who are residents of or are employed in the District.

(b) The following marketing expenses are not subject to the requirements of this title:

- (1) Expenses of \$25 or less;
- (2) Reasonable compensation and reimbursement for expenses in connection with a bona fide clinical trial of a new vaccine, therapy, or treatment; and
- (3) Scholarships and reimbursement of expenses for attending a significant educational, scientific, or policy-making conference or seminar of a national, regional, or specialty medical or other professional association if the recipient of the scholarship is chosen by the association sponsoring the conference or seminar.

Sec. 304. Department reports.

By November 30th of each year, the Department shall provide an annual report, providing information in aggregate form, on prescription drug marketing expenses to the Council and the Corporation Counsel. By January 1, 2005, and every 2 years thereafter, the Department shall provide a report to the Council and the Corporation Counsel, providing information in aggregate form, containing an analysis of the data submitted to the Department, including the scope of prescription drug marketing activities and expenses and their effect on the cost, utilization, and delivery of health care services, and any recommendations with regard to marketing activities of prescription drug manufacturers and labelers.

Sec. 305. Confidentiality; public information.

Notwithstanding any provision of law to the contrary, information submitted to the Department pursuant to this title is confidential and is not a public record. Data compiled in aggregate form by the Department for the purposes of reporting required by this title is a public record as long as it does not reveal trade information that is protected by District, state, or federal law.

Sec. 306. Penalty.

This title may be enforced in a civil action brought by the Corporation Counsel. A manufacturer or labeler that fails to provide a report as required by this title commits a civil violation for which a fine of \$1,000 plus costs and attorney's fees may be adjudged.

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Sec. 307. Rulemaking.

The Mayor is authorized to issue any rules necessary to implement the provisions of this title.

Sec. 308. Report.

The Department shall report to the committee of the Council having jurisdiction over health and human services matters on or before January 1, 2005 and on or before July 1, 2005 on the assessment of fees on manufacturers and labelers of prescription drugs.

Sec. 309. Applicability date.

This title shall apply as of July 1, 2004.

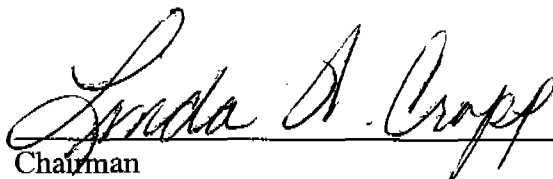
TITLE IV. FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

Sec. 401. 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)).

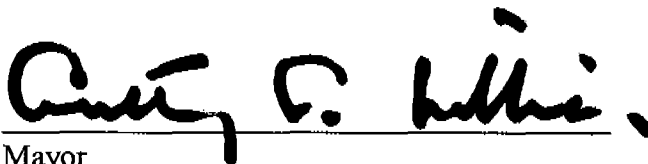
Sec. 402. Effective date.

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

March 24, 2004

Codification District of Columbia Official Code, 2001 Edition