

ENROLLED ORIGINAL

AN ACT
D.C. ACT 17-481

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 28, 2008

To amend, on a temporary basis, the Dedication and Designation of Portions of New Jersey Avenue, S.E., 4th Street, S.E., and Tingey Street, S.E., S.O. 03-1420, Act of 2004 to correct an error in the description of the area included within the Tingey Street, S.E. right-of-way so as to exclude a portion of land located under the historic building known as Building 160 from the right-of-way, and to require the Office of the Surveyor to amend its records to reflect the correction.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Tingey Street, S.E. Right-of-Way Temporary Amendment Act of 2008".

Sec. 2. The Dedication and Designation of Portions of New Jersey Avenue, S.E., 4th Street, S.E., and Tingey Street, S.E., S.O. 03-1420, Act of 2004, effective April 8, 2005 (D.C. Law 15-310; 52 DCR 1720) ("2004 Act"), is amended as follows:

(a) Section 2 (D.C. Official Code § 9-203.02, note) is amended as follows:

(1) Subsection (a)(1) is amended by striking the phrase "provided, that" and inserting the phrase "provided, that the dedication of land, in fee, for street purposes of Tingey Street shall exclude the land that is located under the existing historic building known as Building 160, consisting of approximately 2,577 square feet, as such land is depicted on a certain survey, prepared by AMT, LLC, to mark and map ("excluded land") and recorded in the records of the Office of the Surveyor on February 25, 2008, as Map RS-126 and prepared in conjunction with a plat in Survey Book 1000 at page 203 and also known as Map No. RS-126; and, provided further, that" in its place.

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

"(c) Upon the effective date of the Tingey Street, S.E. Right-of-Way Emergency Amendment Act of 2008, signed by the Mayor on July 16, 2008 (D.C. Act 17-426; 55 DCR __), the excluded land, as described in subsection (a)(1) of this section, shall revert to and be vested in the United States of America, acting by and through the Administrator of the General Services Administration."

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(b) Section 5 is amended as follows:

(1) Designate the existing text as subsection (a).

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

“(b) The plat entitled “Public Streets Dedicated and Easement Established, Square 770” and recorded in Subdivision Book 202 at page 26 among the records of the Office of the Surveyor (“Office”), filed under S.O. 03-1420, shall be amended by the Surveyor to reflect the excluded land within Tingey Street described in subsection (a)(1) of this section. The Surveyor shall correct any other plats or surveys in the Office’s records considered necessary by the Surveyor to reflect the excluded land.”.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Mayor, the Office of the Surveyor, the Office of Planning, the Building and Land Regulation Administration of the Department of Consumer and Regulatory Affairs, and the Office of the Recorder of Deeds.

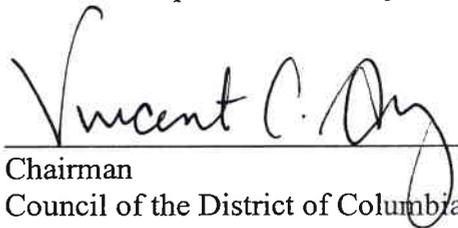
Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the 2004 Act as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

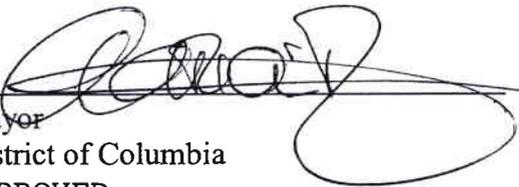
Sec. 5. Effective date.

(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
July 28, 2008

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-482

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 28, 2008*Codification
District of
Columbia
Official Code*

2001 Edition

2008 Fall
Supp.West Group
Publisher

To amend, on a temporary basis, the Vending Regulation Temporary Act of 2008 to expand vending opportunities in and around the Baseball Stadium, within the Capitol Riverfront Vending Development Zone, and to clarify that historic Robert F. Kennedy Memorial Stadium vendors shall be entitled to vend within the development zone.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Expanding Opportunities for Street Vending Around the Baseball Stadium Clarifying Temporary Amendment Act of 2008”.

Sec. 2. Section 6 of the Vending Regulation Temporary Act of 2008, effective June 5, 2008 (D.C. Law 17-172; 55 DCR 5377), is amended by adding a new subsection (c-1) to read as follows:

“(c-1)(1) No later than July 21, 2008, the Mayor shall establish 14 additional vendor locations to be added to the 28 currently identified to increase the number of viable sites to 42 to adhere to the requirements of subsection (c) of this section.

“(2) No later than July 21, 2008, the Mayor shall hold a lottery for the 14 additional vending locations and those vendors selected shall be assigned vending locations, as specifically herein provided, for the duration of the 2008 baseball season.

“(3) The 14 sites assigned pursuant to paragraph (2) of this subsection shall be located as follows:

“(A) Two sites on First Street, S.E., between N Street, S.E., and N Place, S.E. (Eastside);

“(B) Two sites on First Street, S.E., between N Place, S.E., and O Street, S.E. (Eastside);

“(C) Seven sites on Half Street, S.E., between M Street, S.E., and N Street, S.E. (Westside); and

“(D) Three sites on N Street, S.E., between Half Street, S.E., and Van Street, S.E. (Northside).”.

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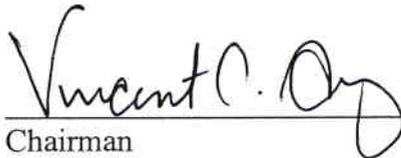
Sec. 3. Fiscal impact statement.

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

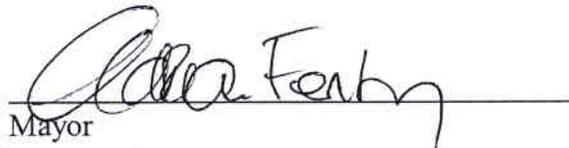
Sec. 4. Effective date.

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

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
July 28, 2008

ENROLLED ORIGINAL

AN ACT
D.C. ACT 17-483IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JULY 28, 2008*Codification
District of
Columbia
Official Code*

2001 Edition

2008 Fall
Supp.West Group
Publisher

To amend, on a temporary basis, the Retail Electric Competition and Consumer Protection Act of 1999 to prohibit the electric company from disconnecting residential electric service when the heat index is forecasted to be 95 degrees Fahrenheit or above.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Heat Wave Safety Temporary Amendment Act of 2008".

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 by adding a new section 106a to read as follows:

"Sec. 106a. Disconnection of service in extreme temperature prohibited.

"(a) For the purposes of this section, the term "forecast of extreme temperature" means a National Weather Service forecast that the heat index for the District of Columbia will be 95 degrees Fahrenheit or above at any time during a day.

"(b) The electric company shall not disconnect residential electric service during the day preceding, and the day of, a forecast of extreme temperature. If the forecast of extreme temperature precedes a holiday or weekend day, the electric company shall not disconnect residential electric service on any day during the holiday or weekend."

Sec. 3. Fiscal impact statement.

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

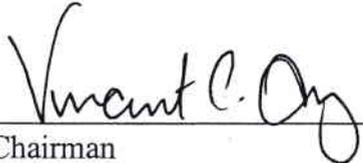
Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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
July 28, 2008

ENROLLED ORIGINAL

AN ACT
D.C. ACT 17-484

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JULY 28, 2008

*Codification
District of
Columbia
Official Code*

2001 Edition

2008 Fall
Supp.

West Group
Publisher

To amend, on a temporary basis, the Performance Parking Pilot Zone Temporary Act of 2008 to change the boundaries of the late night Adams Morgan taxicab zone and provide flexibility regarding the number and placement of taxicab stands.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Adams Morgan Taxicab Zone Temporary Amendment Act of 2008”.

Sec. 2. Section 7 of the Performance Parking Pilot Zone Temporary Act of 2008, effective April 14, 2008 (D.C. Law 17-170; 55 DCR 5185), is amended as follows:

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

“(a) The Mayor shall establish a taxicab zone in Adams Morgan by July 15, 2008, which shall include the following areas:

“(1) The width of 18th Street, N.W., from the intersection of 18th Street, N.W., and Wyoming Avenue, N.W., to the intersection of 18th Street, N.W., and Columbia Road, N.W.; and

“(2) The width of Columbia Road, N.W., from the intersection of Columbia Road, N.W., and Biltmore Street, N.W., to the intersection of Columbia Road, N.W., and Euclid Street, N.W.”.

(b) Subsection (f) is amended by striking the phrase “2 taxicab stands within the Adams Morgan taxicab zone.” and inserting the phrase “at least one taxicab stand within or adjacent to the Adams Morgan taxicab zone.” in its place.

Sec. 3. Fiscal impact statement.

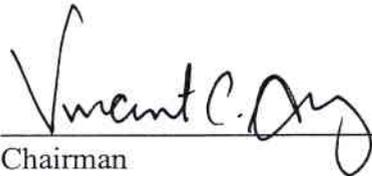
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

ENROLLED ORIGINAL

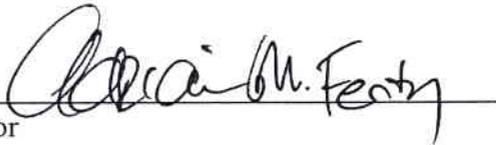
Sec. 4. Effective date.

(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
July 28, 2008

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-485

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 28, 2008

To amend, on a temporary basis, the Workforce Housing Production Program Approval Act of 2006 to grant authority to the Mayor to transfer moneys to the workforce housing pilot program from the Housing Production Trust Fund and the Industrial Revenue Bond special account; and to amend the Housing Production Trust Fund Act of 1988 to authorize the expenditure of \$4 million in accordance with the Workforce Housing Production Program Approval Act of 2006.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Workforce Housing Production Program Temporary Amendment Act of 2008".

Sec. 2. The Workforce Housing Production Program Approval Act of 2006, effective March 14, 2007 (D.C. Law 16-278; D.C. Official Code § 6-1061.01 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 6-1061.02) is amended as follows:

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

"(g) 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."

(2) Subsection (h) is amended by striking the sentence "Within one year after the effective date of this title, the Mayor shall submit a report to the Council on the status of the workforce housing pilot program." and inserting the sentence "Within 60 days after the close of each fiscal year, as such fiscal year is established by the land trust, the land trust shall submit a report to the Mayor and the Council on the status of the workforce housing pilot program and the use of funds from the Housing Production Trust Fund, established pursuant to section 3 of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802)." in its place.

(b) A new section 104 is added to read as follows:

"Sec. 104. Authority to transfer moneys to the workforce housing pilot program from the Housing Production Trust Fund and the Industrial Revenue Bond special account.

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"(a) The Mayor may transfer \$4 million from the Housing Production Trust Fund to such accounts or sub-accounts as may be established pursuant to the trust agreement to be entered into pursuant to section 102(e).

"(b)(1) The Mayor may transfer \$1 million from the Industrial Revenue Bond special account established under D.C. Official Code § 47-131(c)(4) to such accounts or sub-accounts as may be established pursuant to the trust agreement to be entered into pursuant to section 102(e).

"(2) The funds transferred pursuant to this subsection may be used to assist households whose annual incomes do not exceed 120% of the area median income; provided, that the annual incomes of the households assisted through an allocation or proceeds from the Housing Production Trust Fund, established pursuant to section 3 of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802), shall not exceed 80% of the area median income.

"(3) For the purposes of this subsection, the term "area median income" shall have the same meaning as provided in section 2(1) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801(1))."

Sec. 3. Section 3 of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802), is amended by adding a new subsection (b-3) to read as follows:

"(b-3)(1) Notwithstanding any other provision of this act or any other law to the contrary, \$4 million of the funds deposited into the Fund may be made available by the Mayor to the Workforce Housing Land Trust. The uses of the funds shall be governed exclusively by the provisions of the Land Trust Plan and the requirements of the Workforce Housing Production Program Approval Act, effective March 14, 2007 (D.C. Law 16-278; D.C. Official Code § 6-1061.01 *et seq.*)("Production Act").

"(2) For the purposes of this subsection, the term:

"(A) "Land Trust Plan" means the District of Columbia Workforce Housing Land Trust Design and Implementation Plan, as amended and approved pursuant to the Production Act.

"(B) "Workforce Housing Land Trust" means the tax-exempt organization selected by the Deputy Mayor for Planning and Economic Development to administer the pilot program pursuant to section 102 of the Production Act."

Sec. 4. Fiscal impact statement.

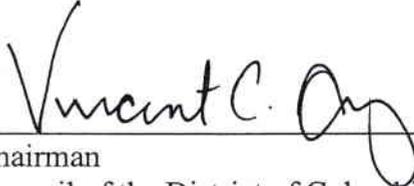
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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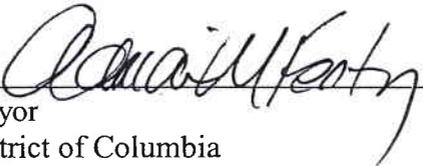
Sec. 5. Effective date.

(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
July 28, 2008

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-486

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 28, 2008

To amend, on a temporary basis, subsection 1158.5 of Title 21 of the District of Columbia Municipal Regulations to authorize swimming in the Potomac River as part of special events to be held in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Special Events Swimming Exception Temporary Amendment Act of 2008".

Sec. 2. Subsection 1158.5 of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 1158.5), is amended to read as follows: DCMR

“(a) Primary contact recreation shall be prohibited in the Potomac River until such time as the standards in subsection 1104.8 for Class A beneficial use are consistently maintained, except that swimming shall be allowed by those persons who are participants in special events authorized by the Mayor of the District of Columbia, in those areas of the Potomac River designated for the swim portion of any such event, and in no other areas. In the event that laboratory examinations of samples collected prior to the scheduled date of any special event suggest to the Director of the District Department of the Environment that, pursuant to the water quality standards set forth in subsection 1104.8, swimming should be prohibited in the Potomac River on that date, the exception contained in this subsection shall not apply. The Mayor shall establish such procedures governing the special events swimming exception as considered appropriate.

(b) The District of Columbia, including, but not limited to, its employees and agents, shall not have any liability whatsoever to any person, as a consequence of the activities conducted, or the participation in activities conducted, pursuant to the exception in paragraph (a) of this subsection.

(c) A person granted an exception pursuant to paragraph (a) of this subsection, and their heirs, successors, and assigns, shall be deemed to have waived liability to the District of Columbia, including, but not limited to, its employees and agents, as a consequence of the conduct of, or participation in, activities pursuant to the exception in paragraph (a) of this

ENROLLED ORIGINAL

subsection.”.

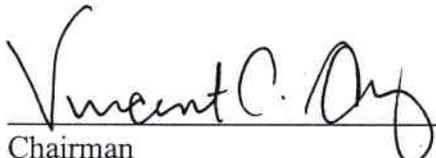
Sec. 3. Fiscal impact statement.

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

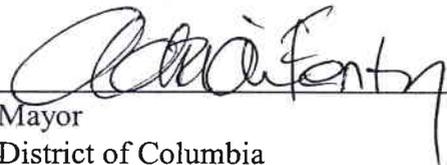
Sec. 4. Effective date.

(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
July 28, 2008

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-487

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 1, 2008

To approve, on an emergency basis, modifications to Contract No. DCRK-2005-D-0014 to operate the District's Disability Compensation Program and to authorize payment for the services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DCRK-2005-D-0014 Modifications Approval and Payment Authorization Emergency Act of 2008".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 105a of the District of Columbia Procurement Practices Act of 1985, effective March 8, 1991 (D.C. Law 8-257; D.C. Official Code § 2-301.05a), Modification No. 5 and proposed Modification No. 6 to Contract No. DCRK-2005-D-0014 with CMI Octagon, Inc., to operate the District's Disability Compensation Program is approved and payment in the amount of \$1,687,035.96 is authorized for services received and to be received under that contract.

Sec. 3. Fiscal impact statement.

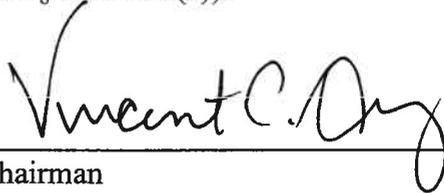
The Council adopts the fiscal impact statement of the Budget Director, dated July 14, 2008, as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

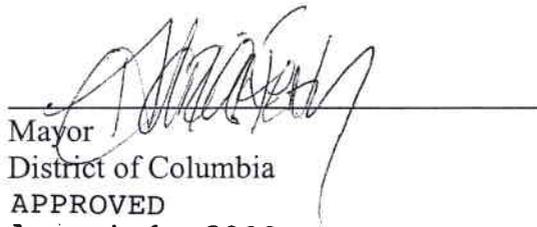
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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
August 1, 2008

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-488

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 1, 2008*Codification
District of
Columbia
Official Code*

2001 Edition

2008 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, the Fiscal Year 2009 Budget Support Act of 2008 to provide that an increase in the earned income tax credit applies as of January 1, 2009, and to clarify the purpose of a grant to City Dance, the grant recipient for the 2009 Freedom Schools summer program, and the information that must be submitted to the Office of the Budget Director to receive a grant.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Designated Appropriation Allocations Emergency Amendment Act of 2008".

Sec. 2. The Fiscal Year 2009 Budget Support Act of 2008, signed by the Mayor on June 26, 2008 (D.C. Act 17-419; 55 DCR __), is amended as follows:

(a) Subtitle A of Title VII is amended by adding a new section 7002a to read as follows:

"Sec. 7002a. Applicability.

"This act shall apply as of January 1, 2009."

(b) Title VIII is amended as follows:

(1) Section 8002 is amended as follows:

(A) Subsection (b)(2) is amended by striking the phrase "to build out new studio and black box dance theater space at 14th and T Streets, N.W." and inserting the phrase "to provide operational support for its work in the District of Columbia" in its place.

(B) Subsection (c)(1)(G) is amended as follows:

(i) Strike the phrase "Children's Defense Fund" and insert the phrase "Southeast Tennis and Learning Center" in its place.

(ii) Strike the phrase "program at the Southeast Tennis and Learning Center" and insert the word "program" in its place.

(2) Section 8003 is amended to read as follows:

"Sec. 8003. Grant allocations requirements.

"(a) To receive a grant pursuant to section 8002, each named grantee shall be required to submit the following, postmarked or hand delivered no later than August 15, 2008:

ENROLLED ORIGINAL

“(1) The organization’s Articles of Incorporation;

“(2) Internal Revenue Service certification that the organization is tax-exempt under section 501(c) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c));

“(3)(A) The organization’s most recent financial audit, not more than 2 years old; or

“(B) A current financial statement by a certified accountant that shows that the organization is in good financial standing and which delineates its:

“(i) Existing assets and liabilities;

“(ii) Pending lawsuits; and

“(iii) Pending and final judgments;

“(4) Internal Revenue Service Form 990 covering the organization’s most recently completed fiscal year;

“(5) A notarized statement from the grantee certifying that:

“(A) The organization is current on District and federal taxes;

“(B) The Council of the District of Columbia is authorized to verify the organization’s tax status with the District of Columbia Office of Tax and Revenue;

“(C) The organization focuses primarily on services to District of Columbia residents and will serve only District of Columbia residents with this grant; and

“(D) The District government shall have access to its financial, administrative, and operational records, including specific consent for the District of Columbia Auditor to access its books, accounts, records, findings, and documents related to the grant; and

“(6) A comprehensive program statement that includes a detailed:

“(A) Scope of work; and

“(B) Budget that describes how the grant funds shall be spent.

“(b) Grantees shall be notified that the District of Columbia Auditor will randomly audit grant recipients.

“(c) The District of Columbia Auditor’s report shall be issued no later than January 1st of the fiscal year immediately following the year for which the grant was awarded.

“(d) Nothing in this title shall be construed as waiving the requirements to submit information required of all grantees by the grantor agencies or organizations.

“(e)(1) If an organization cannot meet the submission requirements established in subsection (a) of this section, the organization shall be required to submit a notarized statement designating a nonprofit organization, which does meet the criteria, to serve as its fiscal agent or fiscal sponsor postmarked or hand delivered no later than August 15, 2008.

“(2) The fiscal agent or fiscal sponsor shall be required to submit the following, postmarked or hand delivered no later than August 25, 2008:

“(A) A notarized statement agreeing to serve as fiscal agent or fiscal sponsor; and

ENROLLED ORIGINAL

“(B) The information required by subsection (a) of this section.”.

Sec. 3. Fiscal impact statement.

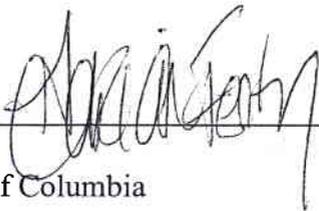
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

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
August 1, 2008

ENROLLED ORIGINAL

AN ACT
D.C. ACT 17-489

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 2008

*Codification
 District of
 Columbia
 Official Code*

2001 Edition

2008 Fall
 Supp.

West Group
 Publisher

To amend, on an emergency basis, Chapter 10 of Title 47 of the District of Columbia Official Code to provide equitable real property tax relief to certain property owned by Washington Parks & People, a tax-exempt organization.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Washington Parks & People Equitable Real Property Tax Relief Emergency Act of 2008”.

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

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

“§ 47-1079. Washington Parks & People Property Tax Exemption.”

(b) A new section 47-1079 is added to read as follows:

“§ 47-1079. Washington Parks & People Property Tax Exemption.

“(a) The Council of the District of Columbia orders that all real property taxes, interest, penalties, fees, and other related charges assessed against real property located at square 2841, lots 0841, 0847, 0848, and 0851, for the period of tax years 1998 to 2008, be forgiven, as of the effective date of this section; provided, that this property is owned and used by Washington Parks & People as a public park, which is available for use by the public, and not used for commercial purposes.

“(b) The one-time transfer of the property specified in subsection (a) of this section to Washington Parks & People shall not be subject to the recordation and transfer taxes and fees under Chapters 9 or 14 of this title.

“(c) Upon the transfer of the property described in subsection (a) of this section to Washington Parks & People, the property shall be exempt from all taxation so long as the same is used in carrying out the public purposes and activities of Washington Parks & People, and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007 and 47-1009.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal

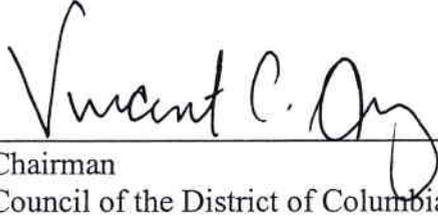
Note,
 § 47-1078

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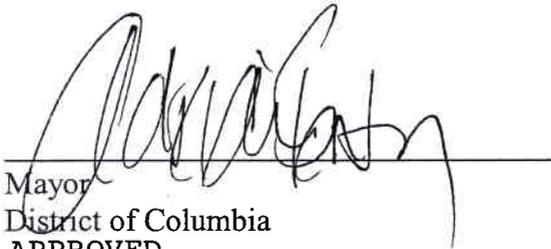
impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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 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
August 4, 2008

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-490

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 2008

To amend, on an emergency basis, the District of Columbia Taxicab Commission Establishment Act of 1985 to place a moratorium on the issue of new licenses for limousine organizations and independently operated limousines and to place a moratorium on the establishment of new taxicab companies, associations, and fleets.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Taxicab Company, Association, and Fleet and Limousine License Moratorium Emergency Amendment Act of 2008".

Sec. 2. The District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.*), is amended as follows:

(a) Section 14 (D.C. Official Code § 50-313) is amended by adding a new subsection (c-1) to read as follows:

"(c-1)(1) No new license to operate a limousine organization or independently operated limousine, as those terms are defined in Chapter 12 of Title 31 of the District of Columbia Municipal Regulations, shall be issued.

"(2) The moratorium on the issue of new licenses to operate a limousine organization or independently operated limousine shall have a prospective effect."

(b) Section 20 (D.C. Official Code § 50-319) is amended by adding a new subsection (b-1) to read as follows:

"(b-1)(1) No new license to operate a taxicab company, taxicab association, or taxicab fleet shall be issued.

"(2) The moratorium on the issue of new licenses to operate a taxicab company, taxicab association, or taxicab fleet, shall have a prospective effect."

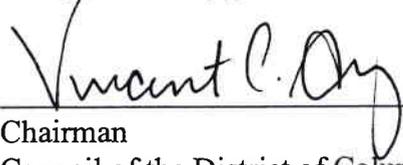
Sec. 3. Fiscal impact statement.

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

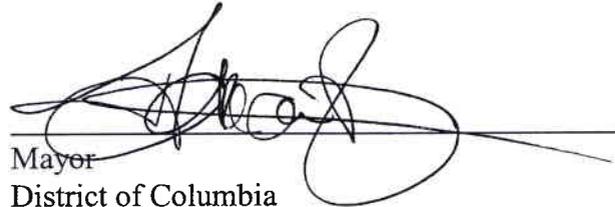
ENROLLED ORIGINAL

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), 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
August 4, 2008

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-491

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 2008

To amend, on an emergency basis, Chapter 46 of Title 47 of the District of Columbia Official Code to provide for tax exemptions for the St. Martin Apartments development project located in Lots 114 and 115, Square 3531.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "St. Martin Apartments Tax Exemption Emergency Act of 2008".

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

(a) The table of contents is amended by adding the section designation "§ 47-4616. St. Martin Apartments project-tax exemptions."

(b) A new section 47-4616 is added to read as follows:

"§ 47-4616 . St. Martin Apartments project-tax exemptions.

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

"(1) "Affordable rental housing project" means a housing development in which units are rented to elderly households with not more than 60% of area median income (adjusted for household size) for a rent not exceeding 30% of 60% area median income of such household, as such amount of area median income is determined by the United States Department of Housing and Urban Development.

"(2) "Developer Sponsor" means St. Martin Apartments LP, its successors, affiliates, and assigns.

"(3) "St. Martin Apartments project" means the acquisition, rehabilitation, and equipping, including the financing, refinancing, or reimbursing of costs incurred therefore, of an affordable housing project, located on the St. Martin Parish of the Roman Catholic Archdiocese of Washington property, consisting of:

"(A) A building containing 178 units of rental housing on the St. Martin Apartments property; and

ENROLLED ORIGINAL

“(B) Other ancillary improvements.

“(4) “St. Martin Apartments property” means the real property, including any improvements thereon, located in Lots 114 and 115, Square 3531.

“(b) The following conveyances with respect to the St. Martin Apartments project shall be exempt from the tax imposed by §§ 42-1103 and 47-903:

“(1) Any conveyances to the Developer Sponsor; and

“(2) Any conveyances from the Developer Sponsor to an entity that operates the St. Martin Apartments project as an affordable rental housing project.

“(c) The sales and rental of tangible personal property to be incorporated in or consumed in the St. Martin Apartments project, whether or not the sale, rental, or nature of the material or tangible personal property is incorporated as a permanent part of the St. Martin Apartments project or the St. Martin Apartments property, shall be exempt from the tax imposed by § 47-2002.

“(d) The St. Martin Apartments property shall be exempt from the tax imposed by Chapter 8 of this title so long as the property is operated as an affordable rental housing project, subject to the provisions of D.C. Official Code §§ 47-1005, 47-1007, and 47-1009, as if the exemption were granted administratively.

“(e) The St. Martin Apartments project shall be exempt from any public space permit fees imposed by § 47-2718.

“(f) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the St. Martin Apartments project or the St. Martin Apartments property.

“(g) This section shall not prevent or restrict the Developer Sponsor from utilizing any other tax, development, or other economic incentives available to the St. Martin Apartments project or the St. Martin Apartments property.”

Sec. 3. Applicability

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan; provided, that if St. Martin Apartments, LP has paid any of the fees or taxes referred to in section 2, the fees or taxes shall be refunded.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

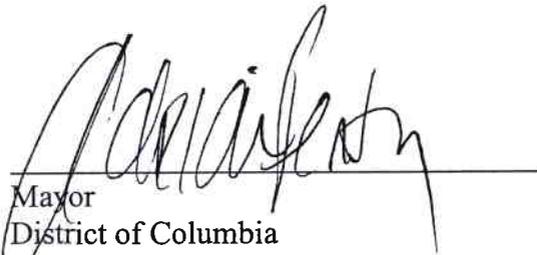
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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
August 4, 2008

ENROLLED ORIGINAL

AN ACT
D.C. ACT 17-492IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
AUGUST 4, 2008*Codification
District of
Columbia
Official Code*

2001 Edition

2008 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, Chapter 20 of Title 21 of the District of Columbia Official Code to clarify presumption of capacity, to add definitions of “best interests”, “emergency care”, “incapacitated individual for health-care decisions”, and “substituted judgment”, to amend the definition of “guardian”, to permit the court to waive the appointment of a visitor and examiner in certain circumstances, to prohibit the appointment of a guardian with a conflict of interest, to require guardians to limit their caseloads, to require the court to appoint the type of guardian which is least restrictive to the individual, to clarify the powers and duties of a guardian, to explain the limits of the authority of a guardian, to clarify the reasons that the court may remove a guardian, and to clarify the situations in which the estate of a ward shall be deemed depleted; to amend Chapter 22 of Title 21 of the District of Columbia Official Code to define the term “Qualified Psychologist”, to require one of the 2 physicians required to pronounce incapacity be a qualified psychologist or a physician, to authorize psychologists to certify incapacity to make a health-care decision, to provide that nothing in this chapter condones mercy-killing or conflicts with the Emergency Medical Treatment and Labor Act, to permit court-appointed mental retardation advocates to provide substituted consent for health-care decisions for incapacitated customers, and to authorize a health-care provider, the District of Columbia, or an interested person to file a petition for the appointment of a limited guardian if there is no individual who can act as a substitute health-care decision maker for an incapacitated customer; to amend the District of Columbia Mental Health Information Act of 1978 to provide that mental health information may be disclosed under a specified act; to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to add definitions of “advanced practice registered nurse”, “behavioral plan”, “best interests”, “comprehensive evaluation”, “human rights advisory committee”, “psychotropic medication”, and “substituted judgment”, and to require initial and periodic evaluations of the decision-making capacity of and the availability of healthcare decision-making supports for Department on Disability Services customers, to require informed consent for services and to establish a process for informed consent for psychotropic medications, to require the Department on Disability Services to complete a comprehensive review of psychotropic medication use for all Department on Disability Services customers within 18 months, to establish an Department on Disability Services health-care decisions

ENROLLED ORIGINAL

policy, and to require the Department on Disability Services Administrator to issue reports on those evaluations and the agency's health-care decision-making activities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health-Care Decisions for Persons with Developmental Disabilities Emergency Amendment Act of 2008".

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

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

Note,
§ 21-2002

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

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

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

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

Note,
§ 21-2011

(1) Re-designate paragraph (1) as paragraph (1A).

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

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

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

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

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

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

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

“(8) “Guardian” means a person who has qualified as a guardian of an incapacitated individual pursuant to court appointment, not including a guardian ad litem, but including:

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

“(i) An emergency guardian whose authority may not extend beyond 21 days and who may exercise any powers granted by court order and not prohibited by law;

ENROLLED ORIGINAL

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

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

“(B) A general guardian not limited by the court in scope as described in section 21-2044(c) or in time as described in section 21-2046; and

“(C) A limited guardian whose powers are limited by the court as described in section 21-2044(c) and who is appointed for a finite period of time as described in section 21-2046 or for an indeterminate period of time.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Note,
§ 21-2041

ENROLLED ORIGINAL

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

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

“(a-1) (1) Except as provided in paragraph (2) of this subsection, a person will be deemed by the court to have a conflict of interest and may not be appointed as a guardian if the person:

“(A) Provides substantial services other than serving as guardian to the incapacitated individual in a professional or business capacity;

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

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

“(2) Notwithstanding the provisions of paragraph (1) of this sub-section, a person may be appointed as a guardian if:

“(A) The person is the incapacitated individual’s spouse, domestic partner, adult child, parent, adult sibling, or relative with whom the incapacitated individual has resided for more than 6 months prior to the filing of the petition; and

“(B) The court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the best interests of the incapacitated individual; provided, that the court may not appoint a guardian in any other circumstance in which a conflict of interest may occur.”.

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

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

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

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

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

“(2) To maintain regular and reasonable contact with each ward, including a minimum of one visit per month, unless otherwise specified by the court based on the expressed preferences of the ward or the ward’s best interests; and

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

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

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

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

Note,
§ 21-2043

Note,
§ 21-2044

ENROLLED ORIGINAL

Note,
§ 21-2046

“§ 21-2046. Temporary guardians.

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

“(b)(1) The court, on appropriate petition, may appoint an emergency guardian, whose authority may not extend beyond 21 days, if:

“(A) An incapacitated individual has no guardian;

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

“(C) There is no other person with authority to act who is reasonably available, mentally capable, and willing to act.

“(2) An emergency guardian appointed pursuant to this subsection may exercise those powers granted in the order.

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

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

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

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

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

“(B) The individual has no guardian; and

“(C) There is no other person with authority to act who is reasonably available, mentally capable, and willing to act.

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

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

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

ENROLLED ORIGINAL

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

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

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

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

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

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

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

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

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

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

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

(D) New paragraphs (6), (7), and (8) are added to read as follows:

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

“(7) Include the ward in the decision-making process to the maximum extent of the ward’s ability; and

“(8) Encourage the ward to act on his or her own behalf whenever he or she is able to do so, and to develop or regain capacity to make decisions in those areas in which he or she is in need of decision-making assistance, to the maximum extent possible.”.

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

(5) Subsection (c) is repealed.

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

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

“A guardian shall not have the power:

Note,
§ 21-2047

Note,
§ 21-2047

ENROLLED ORIGINAL

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

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

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

“(4) To consent to the involuntary or voluntary civil commitment of an incapacitated individual who is alleged to be mentally ill and dangerous under any provision or proceeding occurring under Chapter 5 of Title 21, except that a guardian may function as a petitioner for the commitment consistent with the requirements of Chapter 5 of Title 21 or Chapter 13 of Title 7;

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

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

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

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

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

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

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

“(3) Include the ward in the decision-making process to the maximum extent of the ward’s ability.

“(4) Encourage the individual to act on his or her own behalf whenever he or she is able to do so, and to develop or regain capacity to make decisions in those areas in which he or she is in need of decision-making assistance, to the maximum extent possible; and

“(5) Make any report the court requires.

ENROLLED ORIGINAL

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

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

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

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

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

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

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

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

“(A) Failure to discharge his or her duties, including failure to conform as closely as possible to a standard of substituted judgment or, if the ward’s wishes are unknown and remain unknown after reasonable efforts to discern them, to make a decision on the basis of the ward’s best interests, pursuant to section 21-2047(a)(6) or 21-2047b(b)(2);

“(B) Abuse of his or her powers;

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

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

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

“(F) For any other good cause.”

(j) Section 21-2060 is amended by adding a new subsection (a-1) to read as follows:

“(a-1) The estate of a person or ward shall be presumed to be depleted for purposes of this chapter, and all compensation, expenses, and payouts made under this section shall be paid from a fund established by the District:

“(1) If the person or ward qualifies for federal Supplemental Security Income under Title XVI of the Social Security Act;

“(2) If the person or ward qualifies for Medicaid or Medicaid Expansion Programs as allowed by federal, state, or local requirements;

“(3) If the person or ward qualifies for other means-tested public assistance programs as allowed by federal, state, or local requirements including, Temporary Assistance for Needy Families, Interim Disability Assistance, Food Stamps, and D.C. Healthcare Alliance;

“(4) If the person or ward qualifies for federal disability benefits, including Old Age, Survivors, and Disability Insurance Benefits under Title II of the Social Security Act, Rehabilitation Services Administration Payments, Railroad Retirement Board, or Veterans benefits and such benefits constitute the person or ward’s sole source of income;

Note,
§ 21-2049

Note,
§ 21-2060

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"(5) If the person or ward has been found to be unable to pay for habilitation, care, or legal services by any branch of the Superior Court of the District of Columbia; or

"(6) If the circumstances listed in paragraphs (1), (2), (3), (4), and (5) of this subsection do not apply, the person or ward may establish, by affidavit or other proof satisfactory to the court, the inability to pay any costs without substantial financial hardship to himself or herself or his or her family."

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

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

Note,
§ 21-2202

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

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

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

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

Note,
§ 21-2204

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

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

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

Note,
§ 21-2210

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

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

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

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

"(i) The health-care provider who is treating or providing services to the incapacitated patient at the time of the health-care decision shall accept the decision of the individual authorized under this section to grant, refuse, or withdraw consent on behalf of the patient as the decision of the principal."

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

Note,
§ 21-2212

"§ 21-2212. Effect of chapter.

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

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“(b) Nothing in this chapter shall be construed to conflict with or supersede, the Emergency Medical Treatment and Labor Act, approved April 17, 1986 (100 Stat. 164; 42 U.S.C. § 1395dd).

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

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

individual.”

Sec. 4. Section 303 of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1203.03), is amended by adding a new subsection (c) to read as follows:

Note,
§ 7-1203.03

“(c) Mental health information contained in a certification of incapacity, pursuant to D.C. Code § 21-2204, may be disclosed to initiate a proceeding pursuant to the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, D.C. Code § 21-2001 *et seq.*”

Sec. 5. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.02 *et seq.*), is amended as follows:

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

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

“(1A) “Advanced practice registered nurse” includes a nurse-practitioner or clinical nurse specialist, licensed pursuant to section 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04), and Chapter 59 or Chapter 60 of Title 17 of the District of Columbia Municipal Regulations, who has been certified as a specialist in psychiatry and mental health.”

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

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

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

“(A) Identifies challenging or problematic behavior;

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

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

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

Note,
§ 7-1301.03

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

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

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

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

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

“(6) “Comprehensive evaluation” means an assessment of a person with mental retardation by persons with special training and experience in the diagnosis and habilitation of persons with mental retardation, which includes a documented sequence of observations and examinations intended to determine the person's strengths, developmental needs, and need for services. The initial comprehensive evaluation shall include documentation of:

“(A) A physical examination that includes the person's medical history;

“(B) An educational evaluation, vocational evaluation, or both;

“(C) A psychological evaluation, including an evaluation of cognitive and adaptive functioning levels;

“(D) A social evaluation;

“(E) A dental examination;

“(F) An evaluation by the interdisciplinary team of whether the person currently:

“(i) Has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment; and

“(ii) Has executed or could execute a durable power of attorney in accordance with D.C. Official Code § 21-2205 (A current durable power of attorney shall be included in the comprehensive service plan. In the absence of a durable power of attorney, the service plan shall include documentation that the person has been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and has declined).

“(G) A determination of whether the person has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210.”.

(5) Redesignate paragraphs (14A) and (14B) as paragraphs (14B) and (14C), respectively.

(6) A new paragraph (14A) is added to read as follows:

“(14A) “Human Rights Advisory Committee” means the committee of the Department on Disability Services that provides guidance and oversight regarding matters pertaining to the human rights of individuals receiving services through the Department on Disability Services and reviews allegations of human rights violations.”.

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

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

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

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

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

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

Note,
§ 7-1304.13

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

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

Note,
§ 7-1305.04

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

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

“(A) Has executed or could execute a durable power of attorney in accordance with D.C. Official Code § 21-2205 (A current durable power of attorney shall be included in the comprehensive service plan. In the absence of a durable power of attorney, the service plan shall include documentation that the person has been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and has declined); or

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

“(3) Annual reevaluations or screenings of the customer shall be provided as determined by the customer's interdisciplinary team. Annual reevaluations and screenings shall include a review of and update to the individual habilitation plan on whether the individual:

“(A) Has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment;

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

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

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

“(4) By April 15, 2009, the DDS shall establish written procedures for incorporating a review of all mental-health services, including psychotropic medications, behavioral plans, and any other psychiatric treatments, into the annual reevaluations and screenings conducted by the customer’s interdisciplinary team.

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

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

“Sec. 506a. Informed consent.

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

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

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

“(1) For any proposed services except psychotropic medications, the District shall petition the Court for appointment of a guardian pursuant to Chapter 20 of Title 21. The District’s petition shall request the form of guardianship which is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual’s current mental and adaptive limitations or other conditions warranting the

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procedure. This subsection does not preclude any other party from petitioning the Court for appointment of a guardian.

“(2) For all proposed psychotropic medications, except as described under paragraph (3) of this subsection, the provider may administer medication only when the administration of medication is accompanied by a behavioral plan and only after receiving approval from an independent panel appointed by the DDS Administrator pursuant to section 506b.

“(3) In an emergency in which an individual is experiencing a mental health crisis and in which the immediate provision of mental health treatment, including medication, is, in the written opinion of the attending physician, necessary to prevent serious injury to the individual or others, the provider may administer medication without seeking the individual’s prior informed consent only to the extent necessary to terminate the emergency.

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

“(a) The DDS Administrator shall establish an independent panel to review all proposals to administer psychotropic medications to customers made pursuant to section 506a(c)(2) and in accordance with the administrative procedures established by DDS in accordance with 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.*). The administrative procedures established by DDS shall be consistent with the requirements of this section.

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

“(1) A board-certified psychiatrist, subject to the availability of funds, or an advanced practice registered nurse, as defined in this act;

“(2) A licensed professional; and

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

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

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

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

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

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

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

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“(6) The right of the customer to request that the DDS Human Rights Advisory Committee or its successor entity review the decision of the panel.

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

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

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

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

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

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

“Sec. 506c. Psychotropic medication review.

“(a) By April 15, 2009, the DDS shall complete a psychotropic medication review for all DDS customers.

“(b) By October 17, 2008, the DDS shall establish written procedures, which shall include timelines and shall identify responsible entities or individuals, for promptly implementing the recommendations for each customer identified by the psychotropic medication review.

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

“(d) DDS shall establish in writing:

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

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

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

“(e) The review team shall complete the initial administrative review of psychotropic medications. The initial administrative review of psychotropic medications shall determine, at minimum, for each DDS customer:

“(1) All prescribed psychotropic medications;

“(2) The diagnosis justifying each prescription;

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

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

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

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

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

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

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

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

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

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

“(1) The customer;

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

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

“(4) The customer’s DDS case manager;

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

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

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

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

(f) A new section 507a is added to read as follows:

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

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

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

"(1) Aggregate statistics summarizing the numbers of DDS customers who:

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

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

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

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

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

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

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

“(3) Aggregate statistics describing the requests for consent reviewed during the prior fiscal year by the independent psychotropic medication panel authorized in section 506b,

Note, Repeal
§ 7-1305.07

analyzing outcomes, monthly and yearly trends, and requests for review by the DDS Human Rights Committee;

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

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

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

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

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

“(c) The DDS Administrator shall produce a quarterly report on all substituted consent activities pursuant to subsection (a) of this section until October 2010. Quarterly reports shall be complete by the 15th day of October, January, April, and July and shall include:

“(1) Statistics describing:

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

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

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

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

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

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

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

“(B) The Mayor; and

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

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

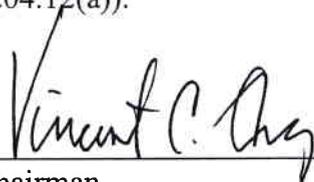
“(e) Nothing in this section shall be construed as requiring any person to execute a durable power of attorney for health care.”.

Sec. 6. Fiscal impact statement.

The Council adopts the June 30, 2008, fiscal impact statement of the Chief Financial Officer for the Health-Care Decisions for Persons with Developmental Disabilities Amendment Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-432), 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. 7. 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
August 4, 2008

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-493

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 2008*Codification
District of
Columbia
Official Code*

2001 Edition

2008 Fall
Supp.West Group
Publisher

To amend the Veterinary Practice Act of 1982 to allow certain individuals to engage in the practice of veterinary medicine without a license, to allow limited practice of veterinarians licensed in Maryland and Virginia, to require investigations of written complaints to be initiated within 30 days and, absent compelling circumstances, to be concluded within 90 days, and to allow veterinarians to issue animal licenses and collect required fees; to amend An Act To provide mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children to add humane officers as required reporters of child abuse and neglect; to amend the Adult Protective Services Act of 1984 to add humane officers as required reporters of adults in need of protective services due to abuse or neglect; to amend the Animal Control Act of 1979 to rename the Animal Control Agency the Animal Welfare and Control Agency, to set forth the functions of the Animal Welfare and Control Agency, to allow for veterinarians to issue animal licenses, to require scanning of animals for microchips, and to limit use of animals to exhibition purposes; to amend the Dangerous Dog Amendment Act of 1988 to authorize the Mayor to determine potentially dangerous and dangerous dogs, to establish registration requirements for potentially dangerous and dangerous dogs, and to set forth potentially dangerous and dangerous dog owner responsibilities; to amend the Regulation of the Horse-Drawn Carriage Trade Act of 1990 to rename the Animal Control Agency the Animal Welfare and Control Agency; to amend Chapter 10 of Title 16 of the District of Columbia Official Code to add animal cruelty with the intent to injure a family member as grounds for a protective order, and to provide for the care of such pets; to amend Chapter 106 of the Acts of the Legislative Assembly to allow a court to order counseling, treatment, or forfeiture of the right to possess animals as a penalty for animal cruelty or abandonment, to establish reporting requirements for known or reasonably suspected animal cruelty, abandonment, or neglect and for the presence of an animal at the home of a person reasonably suspected of abuse of a child, adult, or another animal, and to require the Mayor to establish by rulemaking a notice and hearing process for an owner to contest the seizure, detention, and terms of release and treatment of an animal; to amend An act to prevent cruelty to children or animals in the District of Columbia, and for other purposes to make the penalty for watching animal fighting a felony; to establish commercial animal breeder

ENROLLED ORIGINAL

and commercial pet care facility licensing requirements; to prohibit the release of animals for use in experimentation; to establish requirements for commercial entities that utilize guard dog services; to establish standards for the humane treatment of classroom animals; and to require the development of an emergency preparedness plan for the protection of domestic animals in case of a major disaster or emergency.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Animal Protection Amendment Act of 2008".

TITLE I. OMNIBUS ANIMAL WELFARE AMENDMENTS

Sec. 101. The Veterinary Practice Act of 1982, effective March 9, 1983 (D.C. Law 4-171; D.C. Official Code § 3-501 *et seq.*), is amended as follows:

(a) Section 11 (D.C. Official Code § 3-510) is amended by striking the phrase "investigation and, if warranted," and inserting the phrase "investigation within 30 days, and, absent compelling circumstances, shall conclude the investigation within 90 days. If warranted, the Mayor shall" in its place.

Amend
§ 3-510

(b) New sections 13a and 13b are added to read as follows:

"Sec. 13a. Permitted practice without a license.

"(a) If under the direct supervision of a licensed veterinarian, the following persons may engage in the practice of veterinary medicine without a license:

"(1) Students who are fulfilling requirements for a degree in veterinary medicine from a school of veterinary medicine approved by the Mayor; and

"(2) Graduates of a school of veterinary medicine approved by the Mayor whose first District of Columbia license application is pending.

"(b) A veterinarian licensed in Maryland or Virginia shall be permitted to practice veterinary medicine in the District for a period not to exceed 120 hours annually if the veterinarian:

"(1) Has practiced veterinary medicine for a minimum of 2 years; and

"(2) Is in good standing with his or her veterinarian boards.

"Sec. 13b. Issuance of animal license; collection of fees.

"A licensed veterinarian is authorized to issue animal licenses and to collect the required fees and may collect an additional \$2 for each license issued as reimbursement for administrative costs."

Sec. 102. Section 2 of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02), is amended as follows:

Amend
§ 4-1321.02

(a) Subsection (b) is amended by striking the phrase "law-enforcement officer," and inserting the phrase "law-enforcement officer, humane officer of any agency charged with the

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enforcement of animal cruelty laws," in its place.

(b) Subsection (d) is amended by striking the phrase "law enforcement officer," and inserting the phrase "law-enforcement officer, humane officer of any agency charged with the enforcement of animal cruelty laws," in its place.

Sec. 103. Section 4(a)(1) of the Adult Protective Services Act of 1984, effective March 14, 1985 (D.C. Law 5-156; D.C. Official Code § 7-1903(a)(1)), is amended by striking the phrase "police officer," and inserting the phrase "police officer, humane officer of any agency charged with the enforcement of animal cruelty laws," in its place.

Amend
§ 7-1903

Sec. 104. The Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code § 8-1801 *et seq.*), is amended as follows:

(a) Section 2(b) (D.C. Official Code § 8-1801(2)) are amended by striking the phrase "Animal Control Agency" and inserting the phrase "Animal Care and Control Agency" in its place.

Amend
§ 8-1801

(b) Section 3 (D.C. Official Code § 8-1802) is amended as follows:

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

"Sec. 3. Animal Care and Control Agency."

(2) Subsection (a) is amended by striking the phrase "Animal Control Agency" and inserting the phrase "Animal Care and Control Agency" in its place.

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

"(b) The Animal Care and Control Agency shall:

"(1) Deliver all fees collected under this act to the Mayor;

"(2) Allow the Mayor or the Mayor's designee to inspect the Animal Care and Control Agency to determine compliance with District laws, regulations, policies, and contractual obligations;

"(3) Ensure that all contractually required records are accurate, easily accessible, and available at all times;

"(4) Immediately inform the Mayor or the Mayor's designee of any significant changes in its operations or leadership."

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

"(c) The Animal Care and Control Agency shall promote:

"(1) The reduction of euthanasia of animals for which medical treatment or adoption is possible; and

"(2) The utilization of trap, spay or neuter, and return practices as a means of controlling the feral cat population; provided, that all efforts shall be made to adopt out a trapped, tamable kitten."

(c) Section 5 (D.C. Official Code § 8-1804) is amended as follows:

(1) Subsection (d) is repealed

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

Amend
§ 8-1802

Amend
§ 8-1804

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“(e) The annual license fees for dogs is as follows:

“(1) No fee for a dog trained as a service animal and actually used for the purpose of assisting a person with a physical or sensory impairment, such as a vision or hearing impairment;

“(2) \$15 for a male or female dog certified by a licensed veterinarian as neutered or spayed or certified as incapable of enduring spaying or neutering; and

“(3) \$50 for all other dogs.”

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

“(f) The Mayor may periodically revise the schedule of fees by rulemaking.”

(4) Subsection (h) is amended to read as follows:

“(h) Any license issued pursuant to this section may be issued by the Department of Health or by a veterinarian licensed in the District of Columbia pursuant to section 13b of the Veterinary Practice Act of 1982, effective March 9, 1983 (D.C. Law 4-171; to be codified at D.C. Official Code § 3-512.01). A veterinarian may collect an additional \$2 for each license issued as reimbursement for administrative costs.”

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

“(i)(1) There is established as a nonlapsing fund the Animal Control License Fees Fund (“Fund”), which shall be a segregated account within the General Fund of the District of Columbia and shall be used solely for the purpose of providing animal control and animal disease prevention services.

“(2) The fund shall be administered by the Department of Health.

“(3) The Mayor shall deposit in the Fund:

“(A) Except as provided in subsection (j) of this section, all revenues generated pursuant to subsection (e) of this section; and

“(B) All funds contained within the Animal Control Dog License Fees Fund within the Department of Health.

“(4) Funds deposited in the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in paragraph (1) of this subsection without regard to fiscal year limitation, subject to authorization by Congress.

“(j)(1) There is established as a nonlapsing fund the Sterilization Fund (“Fund”), which shall be used solely for the purposes set forth in subsection (d) of this section.

“(2) Deposits into the Fund shall include:

“(A) Two dollars from each fee paid for the application, issuance, or renewal of a dog license;

“(B) Funds authorized by an act of Congress, a reprogramming, or an intra-District transfer to be deposited into the Fund;

“(C) Any other monies designated by law or regulation to be deposited into the Fund;

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“(D) Interest on money deposited in the Fund.

“(3) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (d) of this section without regard to fiscal year limitation, subject to authorization by Congress.

“(4)(A) Monies in the Fund shall be used to subsidize sterilization of cats and dogs owned by persons within the District of Columbia.

“(B) The Mayor may issue grants to appropriate animal welfare organizations that are experienced in subsidized sterilization efforts.”

(d) Section 6 (D.C. Official Code § 8-1805) is amended as follows:

Amend
§ 8-1805

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

“(a) The Mayor shall impound any dogs, cats, rabbits, or ferrets, the combination of which exceeds 4 animals, or any dogs, cats, rabbits, or ferrets beyond the number authorized in an animal hobby permit issued pursuant to section 10.”

(2) Subsection (b) is amended by striking the phrase “impounded animal.” and inserting the phrase “impounded animal, including scanning the animal for a microchip.” in its place.

(e) Section 9 (D.C. Official Code § 8-1808) is amended as follows:

Amend
§ 8-1808

(1) Subsection (h)(2) is amended by striking the phrase “museum, or educational institution for educational, medical, scientific, or exhibition purposes” and inserting the phrase “or museum for exhibition purposes” in its place.

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

“(k) No person may display, exhibit, or otherwise move animals in the District of Columbia as part of a circus, carnival, or other special performance or event, without first obtaining a permit, issued by the Mayor, that governs the care and management of the animals.”

(f) Section 10 (D.C. Official Code § 8-1809) is amended as follows:

Amend
§ 8-1809

(1) Subsection (a) is amended by striking the phrase “5 or more” and inserting the phrase “7 or more” in its place.

(2) Subsection (b) is amended by striking the phrase “5 or more” both times it appears and inserting the phrase “7 or more” in its place.

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

“(1) An owner unless the owner has obtained the necessary animal licenses as required by law;”

Sec. 105. The Dangerous Dog Amendment Act of 1988, effective October 18, 1988 (D.C. Law 7-176; D.C. Official Code § 8-1901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 8-1901) is amended to read as follows:

Amend
§ 8-1901

“Sec. 2. Definitions.