

## ENROLLED ORIGINAL

## A RESOLUTION

18-9

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to authorize the Mayor to waive, until April 30, 2013, the requirement that the Chief Medical Examiner for the District of Columbia be certified in forensic pathology by the American Board of Pathology or be eligible for such certification.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Appointment of the Chief Medical Examiner Congressional Review Emergency Declaration Resolution of 2009".

Sec. 2. (a) On November 26, 2008, the Chairman, at the request of the Mayor, introduced Bill 17-1040, the Appointment of the Chief Medical Examiner Amendment Act of 2008. The bill was referred to the Committee on Public Safety and the Judiciary. On December 2, 2008, the emergency version of this legislation, Bill 17-1038, was adopted by the Council and the temporary version, Bill 17-1039, passed 1<sup>st</sup> reading. Bill 17-1039 was adopted on December 16, 2008.

(b) Bill 17-1038, the Appointment of the Chief Medical Examiner Emergency Amendment Act of 2008, became effective December 12, 2008, but it was made retroactive to October 1, 2008. Therefore, the emergency expired December 30, 2008. The temporary, Bill 17-1039, the Appointment of the Chief Medical Examiner Temporary Amendment Act of 2008, is in the mayoral review period until January 6, 2009. Therefore, there will be a gap in the legal authority between the expiration of Bill 17-1038 and the effective date of Bill 17-1039. This emergency will prevent a gap in the legal authority.

(c) The Appointment of the Chief Medical Examiner Amendment Act of 2008 allows the Mayor to waive the requirement for certification or eligibility for certification in forensic pathology by the American Board of Pathology for the individual appointed as Chief Medical Examiner for the duration of their term beginning on May 1, 2007 and ending on April 30, 2013.

(d) Permitting the Mayor to waive this certification will allow the incumbent, Dr. Marie Pierre-Louis, to continue to serve as Chief Medical Examiner.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Appointment of the Chief Medical Examiner Congressional Review Emergency Amendment Act of 2009 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

18-10

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend Chapter 23 of Title 16 of the District of Columbia Official Code to require that factfinding hearings be conducted within specified time frames for juveniles ordered into secure detention or ordered into shelter care.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Juvenile Speedy Trial Equity Congressional Review Emergency Declaration Resolution of 2009".

Sec. 2. (a) There exists an immediate need to extend the expansion of speedy trial rights for juveniles ordered into shelter care. The Council has already acted, on an emergency basis, to correct an inequity in District law that provided that a youth placed in secure detention was entitled to a factfinding hearing within set time frames from the date of detainment, but not a youth ordered into shelter care.

(b) Reducing the time that juveniles ordered into shelter care spend awaiting trial will increase the sense of accountability these juvenile offenders have for their actions, and reduce the disruption that occurs for innocent children that are charged and detained.

(c) The Committee on Public Safety and the Judiciary held a public hearing on Bill 17-431, the Juvenile Speedy Trial Equity Amendment Act of 2007, on November 2, 2007. Emergency legislation was adopted by the Council to implement the provisions of that act, as amended, and requires an evaluation of those provisions on the administration of justice. The committee held an additional hearing on this evaluation on October 20, 2008.

(d) Bill 17-431, the Juvenile Speedy Trial Equity Act of 2008, passed 2<sup>nd</sup> reading on December 16, 2008. The emergency version of that legislation, Bill 17-1000, the Juvenile Speedy Trial Equity Emergency Amendment Act of 2008, effective December 3, 2008 (D.C. Act 17-567), is expected to expire on February 1, 2009.

(e) Emergency legislation is necessary to prevent a gap in legal authority.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Juvenile Speedy Trial Equity Congressional Review Emergency Act of 2009 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-11

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency, due to Congressional review, with respect to the need to revise the requirements for criminal records checks for prospective foster and adoptive parents to comply with amendments to federal law.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Adoption and Safe Families Continuing Compliance Congressional Review Emergency Declaration Resolution of 2009".

Sec. 2. (a) Section 152 of the Adam Walsh Child Protection and Safety Act of 2006, approved July 27, 2006 (120 Stat. 587; 42 U.S.C. § 672) ("Adam Walsh Act"), amended the federal criminal record check requirements for foster and adoptive parents that apply to the states and the District of Columbia under Title IV-E of the Social Security Act, approved June 17, 1980 (94 Stat. 500; 42 U.S.C. § 670 *et seq.*) ("Title IV-E"). The District subsequently enacted emergency and temporary legislation to ensure the District's compliance with these new requirements to maintain its eligibility for Title IV-E funding.

(b) The Adoption and Safe Families Continuing Compliance Emergency Amendment Act of 2008, effective October 27, 2008 (D.C. Act 17-559; 55 DCR 12010), expires on January 25, 2009 ("emergency act"). The Adoption and Safe Families Continuing Compliance Temporary Amendment Act of 2008, signed by the Mayor on December 8, 2008 (D.C. Act 17-584; 56 DCR \_\_\_), will not become law prior to the expiration of the emergency act.

(c) Emergency legislation is necessary to ensure that the District of Columbia maintains compliance with the Adam Walsh Act and continues to be eligible for federal funding under Title IV-E.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Adoption and Safe Families Continuing Compliance Congressional Review Emergency Amendment Act of 2009 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-12

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend the District of Columbia Public Postsecondary Education Reorganization Act to allow a member of the University of the District of Columbia Board of Trustees to serve beyond the expiration of his or her term until a successor has been appointed and confirmed.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "University of the District of Columbia Board of Trustees Congressional Review Emergency Declaration Resolution of 2009".

Sec. 2. (a) On May 15, 2008, the terms of 6 of the 15 members of the University of the District of Columbia Board of Trustees ("Board") expired.

(b) Under existing law, a member of the Board whose term has expired is allowed to hold over in his or her position for 180 days. For those members whose term expired May 15, 2008, the holdover period will expire November 11, 2008. Without appropriate appointments, only 9 members of the Board will remain beyond November 11, 2008.

(c) Eight members of the Board must be present at a Board meeting to constitute a quorum, leaving only one alternate position at each meeting. The absence of a quorum would prohibit the Board from moving forward with decision-making activities.

(d) Given the critical duties and responsibilities of the Board, the increased risk of failing to obtain a quorum at Board meetings, and the time required to complete the confirmation process for new nominees, amendatory legislation was necessary to authorize a Board member to serve until a successor has been appointed to ensure continuation of Board operations.

(e) In November 2008, the Council enacted the University of the District of Columbia Board of Trustees Emergency Amendment Act of 2008, effective November 6, 2008 (D.C. Act 17-569; 55 DCR 12112) ("emergency act"), which provided the needed authorization. The emergency act expires on February 4, 2009.

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(f) Temporary legislation, the University of the District of Columbia Board of Trustees Temporary Amendment Act of 2008, signed by the Mayor on December 8, 2008 (D.C. Act 17-590; 56 DCR \_\_\_), must complete the 30-day review period required by 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 will not become law prior to the expiration date of the emergency act.

(g) It is important that the provisions of the emergency act continue in effect, without interruption, until the temporary legislation is in effect.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the University of the District of Columbia Board of Trustees Congressional Review Emergency Amendment Act of 2009 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-13

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency, due to Congressional review, with respect to the need to provide for real property tax rebates for supermarkets that would qualify for the existing real property tax exemption but for the inability of the landlord to pass the tax abatement onto the supermarket.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Neighborhood Supermarket Tax Relief Clarification Congressional Review Emergency Declaration Resolution of 2009".

Sec. 2. (a) Under D.C. Official Code § 47-1002(23), qualifying supermarkets are exempt from real property taxes for 10 years, so long as the property is used as a supermarket.

(b) Ellwood Thompson's, an organic, natural and sustainable food store dedicated to sustainable practices, high-quality products, and to supporting local farmers and the community, has negotiated with DC USA Operating Co., LLC to lease space in the DC USA Shopping Center in Ward 1 to operate a qualifying grocery store.

(c) Ellwood Thompson's receipt of the full benefit of the District supermarket tax incentive is critical to it being able to open and operate a grocery store at the DC USA Shopping Center. Without this emergency legislation, Ellwood Thompson's and similarly situated qualifying grocery stores cannot receive the full intended benefit.

(d) Real property taxes are levied and collected *in rem*, meaning that they are imposed on the property itself. When the owner of the development is not the supermarket, the tax abatement is given to the owner of the development.

(e) To prevent landlords from pocketing the benefit of the tax exemption, existing section 47-1002(23) requires that the real property tax reduction received by the owner as a result of the use of the property by the supermarket be passed to the supermarket in the form of reduced rent. The law contemplates that the pass-through will be implemented by a provision in the lease or other arrangement between the supermarket and its landlord.

(f) When a supermarket is unanticipated in a development, existing leases with any tenants may obligate the owner of the development to pass any tax abatements that it receives to the tenants in the development on a ratable basis based on square footage. Thus, a supermarket

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subsequently located on an existing development may not receive the full benefit of the tax abatement that is meant only for supermarkets, but rather a small, pro-rated amount. Without this clarification, Ellwood Thompson's faces considerable administrative and possibly legal hurdles to achieving the full intended benefit of the District tax incentive.

(g) The Neighborhood Supermarket Tax Relief Clarification Emergency Act of 2008 (D.C. Act 17-560; 55 DCR 12013), will expire on January 25, 2009, before the Neighborhood Supermarket Tax Relief Clarification Temporary Act of 2008 (D.C. Act 17-585) takes effect.

(h) Emergency legislation is necessary to prevent a gap in legal authority.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Neighborhood Supermarket Tax Relief Clarification Congressional Review Emergency Act of 2008 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-14

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency with respect to the need to delay the Metropolitan Police Department or its agents from issuing subpoenas in pursuance of criminal investigations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Metropolitan Police Department Subpoena Limitation Emergency Declaration Resolution of 2009".

Sec. 2. (a) There exists an immediate need to delay the Metropolitan Police Department ("MPD") from issuing subpoenas in criminal investigations.

(b) Mayor's Order 2008-154, issued November 7, 2008 (55 DCR 12535), delegates to the Chief of the Metropolitan Police Department the authority "...to issue subpoenas and to administer oaths to witnesses in any investigation or examination of any municipal matter."

(c) This is a broad new authority that would allow MPD to direct any person to produce himself, others, his papers, or his effects at a time or place of MPD's choosing, without a warrant issued by a judicial officer.

(d) The issuance of a subpoena by the MPD could be interpreted as an unreasonable seizure under the 4<sup>th</sup> Amendment.

(e) The Council needs time to examine this new authority for MPD, and determine what type of limitations, if any, should be placed on this new authority.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Metropolitan Police Department Subpoena Limitation Emergency Amendment Act of 2009 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-15

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency with respect to the need to extend the authorization of the Mayor to reorganize the functions and activities related to street vending to protect the health and welfare of the general public by creating an organized and safe environment where street vending is encouraged by designating appropriate vending site locations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Vending Regulation Emergency Declaration Resolution of 2009".

Sec. 2. (a) In March 2008, the Council adopted the Vending Regulation Emergency Act of 2008, as well as temporary legislation, to authorize the Mayor to regulate vending in the District of Columbia such that licensed vendors would vend only from designated locations. The Mayor was further authorized to create vending development areas where alternative forms of vending regulations could be tested in order to encourage new and innovative vending options to serve the public. The temporary legislation expires on January 16, 2009.

(b) Along with the authority to regulate vending, the March 2008 emergency and temporary bills authorized the Department of Consumer and Regulatory Affairs to adopt new vending regulations. Before adoption, the proposed regulations were to be presented to the Council for review. To date, these regulations have not been transmitted, and thus permanent legislation has not been adopted.

(c) Since the adoption of the Vending Regulation Emergency Act of 2008, the Department of Consumer and Regulatory Affairs has developed a comprehensive vending regulatory process that uses computerized geographical information systems to designate vending locations. This new system meets the most important needs of the public, vendors, and the general business community. Through an efficient and well-received lottery system, the Department of Consumer and Regulatory Affairs has licensed all street and roadway vendors. This process replaces the previous system that led to altercations between vendors over site locations and repeated complaints from the business community regarding competition from vendors located outside their establishments.

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(d) If the Vending Regulation Emergency Act of 2008 is allowed to expire on January 16, 2009, the Mayor will lose the ability to properly regulate vending in the District of Columbia. The existing lottery assignment system would be eliminated and the process would revert to the previous system of vendors claiming site locations based on who got there first and vendors losing their right of first refusal to sites they had been working at for years. Reverting back to that system would adversely impact the safety and welfare of the general public, frustrate the business community, and place an unfair burden on those vendors who have acted within the requirements of the District's current vending laws.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Vending Regulation Emergency Act of 2009 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

18-16

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency with respect to the need to require the Board of Library Trustees and District of Columbia Public Library to maintain library services at R.L. Christian Library and Langston Library until a permanent alternative library site is determined, with Council approval, for each site

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Library Kiosk Services Emergency Declaration Resolution of 2009".

Sec. 2. (a) There exists an immediate need for the Board of Library Trustees and District of Columbia Public Library to maintain library services at R.L. Christian Library, located at 1300 H Street, N.E., and Langston Library, located at 2600 Benning Road, N.E., until a permanent alternative library site is determined, with Council approval, for each site.

(b) On November 18, 2008, the Board of Library Trustees determined to move forward with closing "kiosk-like" libraries, including R.L. Christian Library and Langston Library.

(c) In fiscal year 2008, R.L. Christian Library had a circulation of 4,075, an increase from 2,497 in fiscal year 2007. Also, Langston Library had an increase from 4,016 in fiscal year 2007 to 5,204 in fiscal year 2008.

(d) On December 3, 2008, the Committee on Libraries Parks and Recreation held a roundtable discussing the topic of proposed library closings. Community testimony was overwhelming in discussing the need to maintain library services at R.L. Christian Library and Langston Library, and gather more community input in the decision prior to any closing.

(e) The testimony on December 3, 2008 addressed pedestrian safety challenges with young people traveling to alternatives sites, particularly with the massive street construction project currently along Benning Road, N.E.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Library Kiosk Services Emergency Act of 2009 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

18-17

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency with respect to the need to approve the transfer of jurisdiction over a portion of Fort Dupont Park, U.S. Reservation 405, from the United States, by the Department of the Interior, National Park Service, to the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Transfer of Jurisdiction Over a Portion of Fort Dupont Park Emergency Declaration Resolution of 2009".

Sec. 2. (a) The National Park Service has proposed to transfer administrative jurisdiction of approximately 15 acres of Fort Dupont Park to the District of Columbia to facilitate the District's proposed construction of a youth baseball academy and the expansion of the existing ice rink.

(b) The proposed improvements and expansion of recreational facilities within Fort Dupont Park address a longstanding need and desire for organized recreational opportunities for underserved youth in the adjacent communities in Ward 7 and in the District as a whole.

(c) The proposed transfer of jurisdiction was the subject of an environmental assessment, which included extensive public outreach and input, that concluded in December 2008 with a Finding of No Significant Impact by the National Park Service.

(d) The proposed transfer of jurisdiction requires the approval of the Council and the National Capital Planning Commission, which is scheduled to consider the proposal shortly.

(e) The proposed transfer of jurisdiction is necessary for the District to obtain administrative control of the site for recreational purposes, which is a critical first action to be taken prior to beginning construction of a youth baseball academy and an expanded ice arena in the District, along with zoning, disposition, and financing actions.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Transfer of Jurisdiction Over a Portion of Fort Dupont Park Emergency Approval Resolution of 2009 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

18-18

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To approve, on an emergency basis, the transfer of jurisdiction over a portion of Fort Dupont Park, U.S. Reservation 405, from the United States, by the Department of the Interior, National Park Service, to the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Transfer of Jurisdiction Over a Portion of Fort Dupont Park Emergency Approval Resolution of 2009".

Sec. 2. Pursuant to section 1 of An Act To authorize the transfer of jurisdiction over public land in the District of Columbia, approved May 20, 1932 (47 Stat.161; D.C. Official Code § 10-111), the Council of the District of Columbia approves the transfer of jurisdiction, for recreational purposes, of a portion of the land known as Fort Dupont Park, U.S. Reservation 405, from the United States, by the Department of the Interior, National Park Service, to the District of Columbia.

Sec. 3. Transmittal.

The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Surveyor of the District of Columbia, the Director of the National Capital Planning Commission, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, the Director of the National Park Service, and the Regional Director of the National Capital Parks, National Park Service.

Sec. 4. 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. 5. This resolution shall take effect immediately.

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## A RESOLUTION

18-19

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 6, 2009

To declare the existence of an emergency with respect to the need to amend section 47-1805.04 of the District of Columbia Official Code to permit the release of District of Columbia tax return information to the United States District Court for the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Disclosure to the United States District Court Emergency Declaration Resolution of 2009".

Sec. 2. (a) The United States District Court for the District of Columbia ("District Court") has relied upon the Superior Court of the District of Columbia ("Superior Court") to compile and maintain a master list of prospective jurors for use by both courts. In 2008, the District Court decided to maintain its own master list of prospective jurors to be compiled from voter registration lists, a list of licensed drivers maintained by the Department of Motor Vehicles, and a list of District residents who have filed District income tax returns.

(b) Section 47-1805.04 of the District of Columbia Official Code prohibits the divulgence of particulars contained in District tax returns filed under section 47-1805.01 of the District of Columbia Official Code, with certain exceptions. One exception, contained in section 47-1805.04(j) of the District of Columbia Official Code, authorizes the District Office of Tax and Revenue to furnish the Superior Court with specified tax return information. The Chief Judge of the District Court has requested that the District Court be furnished with the same information for purposes of compiling a master list of prospective jurors, and it is necessary that section 47-1805.04 of the District of Columbia Official Code be amended to permit the divulgence of certain information from tax returns to the District Court so that the District Court's new master jury list is as comprehensive as possible.

(c) Emergency legislation is necessary to ensure that the District Court can create and maintain the largest possible list of prospective jurors drawn from the broadest possible segments of the District.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Disclosure to the United States District Court Emergency Amendment Act of 2009 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.